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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

17 Cr. 686 (LAK)

5 JAMES GATTO, a/k/a "Jim,"  
6 MERL CODE,  
7 CHRISTIAN DAWKINS,

8 Defendants.

-----x

9 October 11, 2018  
10 9:35 a.m.

11 Before:

HON. LEWIS A. KAPLAN,

12 District Judge  
13 and a Jury

14 APPEARANCES

15 ROBERT S. KHUZAMI  
16 Acting United States Attorney for the  
17 Southern District of New York  
18 BY: EDWARD B. DISKANT  
19 NOAH D. SOLOWIEJCZYK  
20 ALINE R. FLODR  
21 ELI J. MARK  
22 Assistant United States Attorneys

23 WILLKIE FARR & GALLAGHER LLP  
24 Attorneys for Defendant Gatto  
25 BY: MICHAEL S. SCHACHTER  
CASEY E. DONNELLY

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APPEARANCES (Cont'd)

NEXSEN PRUET LLC

Attorneys for Defendant Code

BY: MARK C. MOORE

-and-

MERL F. CODE

HANEY LAW GROUP PLLC

Attorneys for Defendant Dawkins

BY: STEVEN A. HANEY

Also present: SONYA JACOBS, Paralegal

SYLVIA LEE, Paralegal

ANTHONY CASOLA, FBI

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1 (Trial resumed; jury not present)

2 THE COURT: Good morning, all.

3 ALL COUNSEL: Good morning, your Honor.

4 THE COURT: Be seated.

5 I understand that someone wants to raise an issue.

6 MR. MARK: Yes, your Honor. We just wanted to flag an  
7 issue that I think -- I will speak up since it seems like the  
8 mics are down.

9 The government just wants to flag an evidentiary issue  
10 we anticipate is going to come up during Mr. Gassnola's  
11 testimony later this morning, which we understand that the  
12 defense is going to object to an exhibit that we intend to  
13 introduce. I've got copies for your Honor.

14 THE COURT: Thank you.

15 MR. MARK: This has been marked as Government Exhibit  
16 113B-1, and this is a text chain from November 13, 2017,  
17 between Billy Preston, who is identified as "It's Me" on this  
18 text chain.

19 THE COURT: Sorry. Who is identified as?

20 MR. MARK: "It's Me," the owner of the phone the text  
21 messages come from.

22 THE COURT: I see.

23 MR. MARK: And the other participant in this text  
24 chain is Billy Preston, his mother, who is -- sorry, Nicole  
25 Player, his mother, who is identified as "Ma," M-a, on this

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1 text chain.

2 To put this text chain in context is at this time,  
3 this is when Kansas commenced an investigation of NCAA rules  
4 violations relating to Nicole Player and Billy Preston and  
5 extra benefits. Through this text chain, you see that she is  
6 giving certain direction to her son to say that when somebody  
7 comes to ask her son, that he doesn't know. He confirms that  
8 he understands that. And she gives further instruction to say  
9 to him: "I don't know. If they ask you about a person, say,  
10 'I don't know, I would have to see their face.'"

11 At the same time that she is giving this instruction  
12 to her son, Billy Preston, we are going to elicit testimony  
13 from Mr. Gassnola that she is talking with Mr. Gassnola about  
14 this investigation and is asking Mr. Gassnola to lie about the  
15 investigation. We think -- and about the money that  
16 Mr. Gassnola has provided to her, Nicole Player, Billy  
17 Preston's mother, and that that's necessary in order to  
18 preserve Billy Preston's eligibility with the school. She is a  
19 member of the conspiracy. These are statements in furtherance  
20 of the conspiracy, and we anticipate these are going to be  
21 admissible based on the foundation that is laid through  
22 Mr. Gassnola's testimony.

23 THE COURT: OK.

24 MR. SCHACHTER: Your Honor, we do object to the  
25 admission of this document. This is related to an unrelated

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1 investigation that was being conducted by Kansas relating to  
2 potential unrelated benefits. A little history is important.

3 So what happens is the University of Kansas --  
4 Mr. Preston is involved in a car accident involving a Dodge  
5 Charger, and the University of Kansas begins an investigation  
6 into determining, well, where did he get the Dodge Charger  
7 from. They look into it, including getting records of the  
8 certificate of title. And the University of Kansas determines  
9 that this Dodge Charger came from Nicole Player's recently  
10 deceased sister. And they are then satisfied that this Dodge  
11 Charger had come from -- and the title records bear that out  
12 that were produced by the University of Kansas -- that this  
13 Dodge Charger comes from Ms. Player's deceased sister -- I'm  
14 sorry, deceased grandmother. Grandmother in Florida. OK.  
15 Sorry about that.

16 In any event, the car does not --

17 THE COURT: I didn't think Dodge Chargers were hot on  
18 the grandmother set.

19 MR. SCHACHTER: I apologize to the grandmother.

20 Now, once they commence that investigation, as they go  
21 down the path, they then learn that Mr. Gassnola has provided a  
22 wire transfer to Nicole Player because they start looking  
23 into -- the government has filed this indictment, and they  
24 start to look into any connections between the University of  
25 Kansas and Adidas. And then, subsequent to this, they look

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1 into a relationship between Mr. Gassnola and Nicole Player.

2 So my point is this communication between mother and  
3 child, which Mr. Gassnola, of course, has never seen before,  
4 knows nothing about this communication, is certainly an  
5 inappropriate witness to testify regarding this document. In  
6 any event, this should not be admitted during the course of  
7 Mr. Gassnola's testimony. In any event, this communication  
8 between mother and son is relating to the origin of a Dodge  
9 Charger, which comes from, as Ms. Donnelly reminds me, the  
10 grandmother, and the University of Kansas is satisfied by that.

11 So it's really -- this is a completely unrelated  
12 communication about an unrelated investigation into a  
13 potentially unrelated NCAA rule violation that Kansas concludes  
14 was not actually an NCAA rule violation because they are  
15 satisfied that this car comes from the grandmother. So, it's  
16 really irrelevant and certainly should not be admitted through  
17 this witness.

18 MR. MARK: Your Honor --

19 MR. MOORE: I just wanted to add something, your  
20 Honor, if I may?

21 At this point, the charges against our clients have  
22 already been brought. There is no evidence that my client or  
23 Mr. Dawkins or Mr. Gatto were involved in any sort of  
24 conspiracy to obstruct, and I'm sure that Mr. Mark is going to  
25 talk about conspiracy to obstruct. At best, this is a

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1 separate, according to Mr. Schachter, and I agree with him,  
2 completely unrelated argument -- unrelated incident, but, at  
3 best, if it is a separate conspiracy to obstruct, it has  
4 nothing to do with these defendants because if there is no  
5 evidence that the conspiracy that's charged here continued  
6 after the day of the arrests, then there is case law that says  
7 that that is clearly not admissible because these are not  
8 co-conspirator statements in furtherance of the conspiracy that  
9 is charged here.

10 THE COURT: It doesn't have to be in furtherance of  
11 the conspiracy charged here.

12 MR. MOORE: But I do believe, your Honor --

13 THE COURT: As you know.

14 MR. MOORE: I do believe it has to be in furtherance  
15 of a conspiracy involving the defendants who are on trial, and  
16 there is no evidence of that.

17 THE COURT: I'm not even sure that's right, but I have  
18 an open mind on it.

19 MR. SCHACHTER: Your Honor, if I may just add one  
20 additional point?

21 The government has no evidence linking any money  
22 received from Mr. Gassnola to the purchase of this Dodge  
23 Charger and certainly absent any predicate that this car  
24 purchase, which is what's being discussed, has any relationship  
25 to this, your Honor.

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1 THE COURT: Mr. Mark.

2 MR. MARK: Your Honor, as the evidence will come out,  
3 the timing of this text message between Nicole Player and Billy  
4 Preston is the same timing as the conversations between Nicole  
5 Player and TJ Gassnola about concealing and obstructing the  
6 University of Kansas. That will be established through his  
7 testimony, through documents there. We are not intending to  
8 elicit his testimony about the texts of these messages. He is  
9 not on them. We are not going to do that. But obviously it is  
10 important for context for the jury to put those two items  
11 together.

12 As to just what Mr. Schachter was saying about what  
13 Kansas' investigation did or did not know at different points  
14 in time, candidly, a lot of those details are not in evidence.  
15 The government actually disagrees with a lot of those different  
16 details that he has proffered. But they are really irrelevant  
17 because the timing here demonstrates that this is part of  
18 efforts to conceal to the University of Kansas and related to  
19 Mr. Gassnola, related to the payments that were made by  
20 Mr. Gassnola and Mr. Gatto and Adidas and Nicole Player.

21 THE COURT: What it seems to me -- and I'm just  
22 quickly running my eye over it, and I need to do more -- is  
23 that it's indicative of an intent on the part of Nicole Player  
24 and her son to cover these facts up. And that's maybe evidence  
25 that she had an intent to obstruct and cover up with respect to



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1 other things, but I'm not sure that gets you all the way home.

2 In any case, this witness is not somebody who can put  
3 these in, put any of this in, right?

4 MR. MARK: So, your Honor, there is a stipulation to  
5 the authenticity of these text messages.

6 THE COURT: Yes.

7 MR. MARK: What we intended to do was, as we're  
8 discussing Ms. Player's conversations with Mr. Gassnola at this  
9 time period about his efforts, her efforts, and their  
10 discussions about concealing and obstructing Kansas'  
11 investigation, that we would introduce these just for context  
12 so that the jury understands that this is what's going on as  
13 well at the same time. We're not going to elicit from him any  
14 comments about these text messages since he is not on them.

15 THE COURT: None of this is offered to prove the truth  
16 of any of it, is it?

17 MR. MARK: No, it is not offered to prove the truth at  
18 all. And we further say that this is definitely related,  
19 because you see the last line of these text messages -- and I  
20 know your Honor is just seeing this for the first time -- it is  
21 an instruction from Ms. Player to her son: "If they ask you  
22 about a person, say, 'I don't know, I would have to see their  
23 face.'"

24 That doesn't sound like a comment about the grandma.

25 THE COURT: No, clearly not. But it might relate to

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1 it anyway.

2 Look, there is no reason that it has to come in  
3 through Mr. Gassnola. You get an opportunity on closing  
4 argument to put lots of pieces together, and if it is properly  
5 admissible, you can do it later in the government's case and  
6 that's what you're going to need to do. And in the meantime, I  
7 want memoranda on this. You know the law in the Second Circuit  
8 does not make any statements in furtherance of any  
9 conspiracy -- and, indeed, I'm not sure this is even the right  
10 analysis at the moment -- admissible under 801(d)(2)(E). There  
11 has got to be some relationship between the charged conspiracy  
12 and the other conspiracy. But to me the more fundamental  
13 question seems to be, at first blush -- and I haven't had a  
14 chance to really think about this -- how Player's apparent  
15 intention to cover up the business with the car is relevant to  
16 these defendants. That's the more fundamental issue, I think.

17 MR. MARK: OK. Your Honor, we will take that under  
18 advisement, and we are not going to seek to introduce this  
19 during Mr. Gassnola's testimony.

20 THE COURT: OK. We have a jury. Let's bring the jury  
21 in.

22 (Continued on next page)

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Gassnola - direct

1 (Jury present)

2 THOMAS JOSEPH GASSNOLA,

3 Resumed, and testified further as follows:

4 THE COURT: Please be seated, everyone.

5 We still have to wait for one juror.

6 (Pause)

7 All right. The jury now is all present.

8 The witness is reminded he is under oath.

9 Mr. Mark, you may proceed.

10 MR. MARK: Thank you, your Honor.

11 DIRECT EXAMINATION

12 BY MR. MARK:

13 Q. Good morning, Mr. Gassnola.

14 A. Good morning.

15 Q. Right before we ended for the day yesterday, you were  
16 discussing a payment in 2015 for Brian Bowen to switch playing  
17 grassroots teams to an Adidas-sponsored one, is that right?

18 A. Yes.

19 Q. Did there come another point in time that you discussed  
20 with Christian Dawkins a payment to Brian Bowen's family?

21 A. Yes. In May of 2017, Christian called me.

22 Q. And at that time, what did Mr. Dawkins say to you and what  
23 did you say to him about that?

24 A. Christian explained to me -- told me that Brian Bowen had  
25 an interest in going to the University of Louisville and the

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Gassnola - direct

1 family was looking for money for him to go to Louisville.

2 Q. How far was Brian Bowen in school at that point in time?

3 A. A senior in high school.

4 Q. During that conversation with Mr. Dawkins about Brian Bowen  
5 going to Louisville, was there any monetary figure that was  
6 discussed in connection with that decision?

7 A. Christian informed me the family was looking for money to  
8 go to Louisville. And I told Christian, I said, "We'll give  
9 them 25 grand."

10 Q. When you said we'll give you 25 grand, where would that  
11 money have come from?

12 A. Adidas.

13 Q. After this conversation with Mr. Dawkins, did you  
14 communicate with Mr. Gatto about that at all?

15 A. Sometime thereafter I had a conversation with Jimmy. I  
16 told Jimmy the conversation that Christian and I had. Jimmy  
17 informed me that he had already had that conversation about  
18 Brian with Merl Code, and don't worry about it, he was going to  
19 run it through Merl and do it that way.

20 Q. And what, if anything, did Mr. Gatto say about why he was  
21 going to run a payment through Mr. Code?

22 A. He said he had already talked to Merl, and he was going to  
23 run it through Merl's stuff and he said there's enough going  
24 through your account. Let's just do it this way.

25 Q. At the time, was there a lot of money going through your

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Gassnola - direct

1 account?

2 A. Yes.

3 Q. What was that money for?

4 A. Expenses, salary, payments to players.

5 Q. Mr. Gassnola, let me direct your attention to Government  
6 Exhibit 107E.

7 MR. MARK: Ms. Lee, could we just show this to the  
8 witness only.

9 (Pause)

10 Q. Mr. Gassnola, do you recognize this document?

11 A. I do.

12 Q. What is it?

13 A. It's a text messages between myself, Christian Dawkins, and  
14 Merl Code.

15 MR. MARK: The government offers Government Exhibit  
16 107E.

17 THE COURT: Received.

18 (Government's Exhibit 107E received in evidence)

19 MR. MARK: May we publish it, your Honor?

20 THE COURT: Yes.

21 BY MR. MARK:

22 Q. So, Mr. Gassnola, what is the date of this text message?

23 A. May 31, 2017.

24 Q. And where it says "Christian Vaugh," is that Christian  
25 Dawkins?

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Gassnola - direct

1 A. Yes.

2 Q. Could you just read what you wrote?

3 A. I need to speak with both of you ASAP.

4 Q. Why did you want to talk with both of them ASAP?

5 A. Because when -- after Jimmy and I had the conversation, you  
6 know, I realized that Christian had called me when he had  
7 already talked to Merl and he was trying to play me against  
8 Merl, vice versa, and I wasn't very happy about it.

9 Q. Why weren't you happy about that?

10 A. Because he didn't need to call me; he already talked to  
11 Merl. They already talked to Jimmy, seeing it was that they  
12 had an agreement. So why he brought me into it, I felt he was  
13 looking to get more money than what him and Merl talked about  
14 and I wasn't very happy about it.

15 Q. So after you sent this text message, did you talk with  
16 Mr. Code and Mr. Dawkins?

17 A. I did. I don't think it was the same time but I did talk  
18 to them, both of them.

19 Q. And what did you say to each of them and what did they say  
20 to you?

21 A. I don't recall exactly what those two said to me, but I  
22 made it clear to them that I wasn't happy about, as I called  
23 it, the "he said, she said" stuff, or playing one against the  
24 other. I made it clear that I wasn't happy about that.

25 MR. MARK: Now, Ms. Lee, could we show the witness

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Gassnola - direct

1 only Government Exhibit 107P-3.

2 Mr. Gassnola, do you recognize this document?

3 A. I do.

4 Q. What is it?

5 A. It is a text message between myself and Merl Code.

6 MR. MARK: The government offers Government Exhibit  
7 107P-3 into evidence.

8 MR. SCHACHTER: No objection.

9 THE COURT: Received.

10 (Government's Exhibit 107P-3 received in evidence)

11 MR. MARK: May we publish it, your Honor?

12 THE COURT: Yes.

13 Q. And you mentioned this is a text message between yourself  
14 and Mr. Code?

15 A. Yeah.

16 Q. Is this the same date as the prior text message with  
17 Mr. Code -- what you sent to Mr. Code and Mr. Dawkins?

18 A. Yes.

19 Q. Could you just read the first four lines of text?

20 A. "By the way, this Bowen thing looks good for us perception  
21 wise, I think. Thanks bro'."

22 Q. How did Mr. Code respond?

23 A. "Thanks. I think it's great for us. Thanks for the  
24 support. Real talk."

25 Q. When you say, "the Bowen thing," what were you referring

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Gassnola - direct

1 to?

2 A. Brian Bowen going to Louisville and his commitment to  
3 Louisville.

4 Q. And when you said, "It looks good for us perception wise,"  
5 perception with whom are you referring to?

6 A. The outside world, people in the building at Adidas, that  
7 we were working together as a basketball marketing brand and we  
8 were trying to help our schools get players.

9 Q. At this time, did you ever disclose to anyone at  
10 Louisville, or anyone on the coaching staff at Adidas, that  
11 Adidas was making a payment to Brian Bowen's family in  
12 connection with that effort for him to go to Louisville?

13 A. I never talked to any of the coaching staff at Louisville  
14 about this at that time.

15 MR. MARK: Now, Ms. Lee, could we just highlight the  
16 lower portion.

17 Q. Mr. Gassnola, could you read how you continued on with  
18 Mr. Code?

19 A. "You always have mine. I was never upset at you. I just  
20 don't like sloppy stuff that makes people be look effin  
21 stupid."

22 Q. How did Mr. Code respond?

23 A. "Agreed."

24 Q. After this text message, did you have any further  
25 involvement in facilitating a payment to the family of Brian



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Gassnola - direct

1 Bowen?

2 A. I did not.

3 Q. Now, let me direct your attention to what's been marked as  
4 Government Exhibit 107R-2 and 107R-3.

5 Mr. Gassnola, do you recognize these two documents?

6 A. I do. It is a text message between myself and Christian  
7 Dawkins.

8 MR. MARK: The government offers 107R-2 and 107R-3  
9 into evidence.

10 THE COURT: Received.

11 (Government's Exhibits 107R-2 and 107R-3 received in  
12 evidence)

13 MR. MARK: Ms. Lee, or -- may we publish Government  
14 Exhibit 107R-2 initially?

15 THE COURT: Yes.

16 BY MR. MARK:

17 Q. And what is the date on this text message?

18 A. May 31, 2017.

19 Q. Just shortly after the prior ones with Mr. Code?

20 A. Yes.

21 Q. OK. Now, could you just read what you wrote on 8:31 p.m.  
22 and Mr. Dawkins' response?

23 A. "Bowen needs to commit this evening." Chris responded, "He  
24 committed to them tonight, but please don't tell anyone. He  
25 doesn't want anything out until he puts it out himself next

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Gassnola - direct

1 week. I'll call you tomorrow."

2 Q. Why did you write to Mr. Dawkins "Bowen needs to commit  
3 this evening"?

4 A. I don't recall exactly where my head was except for that I  
5 wanted to act like I was involved and be involved. Just that  
6 was my personality, I wanted to act like I was involved with  
7 it.

8 Q. Did you want to assure that this -- that this happened?

9 A. Yeah.

10 Q. And as far as you knew, was there any reason Bowen needed  
11 to commit that evening?

12 A. I don't recall that.

13 MR. MARK: Ms. Lee, could we show the witness  
14 Government Exhibit 107K-4-5 and-10?

15 (Pause)

16 Q. Mr. Gassnola, do you recognize each of those three text  
17 messages, those documents?

18 A. Yeah.

19 Q. What are they?

20 A. Text messages between myself and Jim Gatto.

21 MR. MARK: The government offers Government Exhibit  
22 107K-4-5 and -10 into evidence.

23 THE COURT: Received.

24 (Government's Exhibits 107K-4-5 and -10 received in  
25 evidence)

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Gassnola - direct

1 MR. MARK: Permission to publish Government Exhibit  
2 107K-4?

3 THE COURT: Yes.

4 MR. MARK: Could we just highlight, Ms. Lee, the top  
5 portion. Thank you.

6 Q. Mr. Gassnola, could you please read what you wrote to  
7 Mr. Gatto?

8 A. "Pitino is ecstatic. The kid called and committed.  
9 Everyone did their part. Call you tomorrow."

10 Q. Who is Pitino?

11 A. Rick Pitino.

12 Q. And who is Rick Pitino?

13 A. He is the head coach at Louisville.

14 Q. When you wrote "Pitino is ecstatic," had you spoken with  
15 Pitino already?

16 A. No.

17 Q. Why did you write that?

18 A. Because I wanted Jimmy to feel -- to be happy, seem like I  
19 pretend that I talked to be Pitino and put Jimmy in a good  
20 place, make sure he was smiling, felt good about everything.

21 Q. Did there come a point in time that you learned how much  
22 money Adidas was going to provide to Brian Bowen's family to  
23 get him to go to Louisville?

24 A. I did.

25 Q. And how much money did you learn Adidas was going to

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Gassnola - direct

1 provide?

2 A. \$100,000.

3 MR. MARK: Now, going down the chain, Ms. Lee, could  
4 we highlight the bottom part of it, the complete bottom half.

5 Q. Could you tell us what that image is? I know it is a  
6 little hard to see on this document.

7 A. It is a screenshot one of my coaches in my program sent me  
8 where my program was ranked at that time.

9 Q. How was it ranked at that time?

10 A. Top five in the country.

11 Q. Now, do you see where you ever wrote, "6 years ago NCAA  
12 shut me down. 5 years ago Robbins cut me. Appreciate you  
13 man"?

14 A. I do.

15 Q. Just starting with "6 years ago NCAA shut me down," what  
16 were you referring to there?

17 A. 2012, the NCAA suspended my basketball program for  
18 participating in NCAA live events -- NCAA-sanctioned events.  
19 My program couldn't continue to participate in those events.

20 Q. Does the NCAA sanction certain grassroots events?

21 A. They do.

22 Q. And do those events have to follow NCAA rules?

23 A. Yes.

24 Q. And why did the NCAA sanction your team?

25 A. They accused my program and myself of receiving money from

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Gassnola - direct

1 a sports agency; therefore, they said I was ineligible -- my  
2 program was ineligible to continue moving forward.

3 Q. Would that have violated NCAA rules?

4 A. Yes.

5 Q. At that time, did you take money from a sports agency?

6 A. No.

7 Q. Which sports agency were they concerned about?

8 A. ASM Sports.

9 Q. Is that Andy Miller's sports agency?

10 A. It is.

11 Q. Had you ever received money from ASM or Andy Miller in the  
12 past?

13 A. I did.

14 Q. When was the last time, approximately?

15 A. Around 2006, somewhere around there, 2005/2006.

16 Q. And what were you doing for Mr. Miller at that time?

17 A. I was a recruiter for Andy.

18 Q. Now, you mentioned what they claimed you did was a  
19 violation of the NCAA rules?

20 A. Yes.

21 Q. OK. And from running a grassroots program and working at  
22 Adidas, were you generally familiar with NCAA rules?

23 A. Some of them, yes, I was.

24 Q. Did you ever attend training sessions with NCAA employees?

25 A. From time to time at our grassroots meetings, NCAA

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Gassnola - direct

1 representatives would come and speak about certain rule changes  
2 or -- rule changes with kids' academic requirements moving  
3 forward, that type of thing.

4 Q. Were you familiar with NCAA rules regarding what players  
5 are eligible to play in college?

6 A. A little bit, yeah.

7 Q. Are payments to a player's parent permissible?

8 A. No.

9 Q. Are payments to a player's legal guardian permissible?

10 A. They are not.

11 Q. What are the consequences to a player whose parent or  
12 guardian accepted money?

13 MR. SCHACHTER: Objection.

14 THE COURT: Sustained.

15 Q. What are the consequences to a college that the player  
16 attends?

17 MR. SCHACHTER: Objection.

18 MR. MOORE: Position.

19 THE COURT: Pardon me?

20 MR. MOORE: Objection.

21 THE COURT: Sustained.

22 BY MR. MARK:

23 Q. Now, you mentioned that the NCAA banned you for a period of  
24 time from competing in events?

25 A. They did.

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Gassnola - direct

1 Q. How long was that?

2 A. Almost a year.

3 Q. Did you contest the NCAA's ban?

4 A. I did.

5 Q. Were you successful in challenging NCAA's ban?

6 A. I was.

7 MR. MARK: Now, Ms. Lee, could we put that text back  
8 up.

9 Q. In your text, right below the discussion about the NCAA  
10 shutting you down, you mentioned "Robbins." Who is Robbins?

11 A. Jeff Robbins at the time was the head of grassroots  
12 basketball at Adidas.

13 Q. And what were you referring to when you said, "5 years ago  
14 Robbins cut me"?

15 A. Jeff didn't renew my contract in 2013.

16 Q. That was a year after the issue with the NCAA?

17 A. That's correct.

18 Q. And when you said "your contract," are you referring to the  
19 New England Playaz team's contract?

20 A. I am.

21 Q. Did you discuss Robbins' cutting your contract with  
22 Mr. Gatto at the time?

23 A. I did.

24 Q. And how did Mr. Gatto respond, if at all?

25 A. Jimmy was right there for me. He, as Jimmy does, he is a

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Gassnola - direct

1 great friend and he was right there for me, he took care of me  
2 in moving forward with my program.

3 Q. When you say he took care of your program, what did he do  
4 to take care of your program.

5 A. He got my program some money to continue to travel and  
6 product to continue to travel and keep my program afloat.

7 Q. Now, in this text message, you continue, you say,  
8 "Appreciate you, man, more than you will ever know." Is that  
9 how you felt about Mr. Gatto?

10 A. Still do.

11 Q. Now, returning to the payment to Brian Bowen's family,  
12 after you learned that Brian Bowen had committed, did you talk  
13 with any of the coaches at Louisville about his commitment?

14 A. I sent a brief text to Rick Pitino. That's it.

15 Q. Let me direct your attention to Government Exhibit 107Q-1.  
16 Do you recognize this?

17 A. I do.

18 Q. And what is it?

19 A. A text message between myself and Rick Pitino.

20 MR. MARK: The government offers Government Exhibit  
21 107Q-1 into evidence.

22 THE COURT: Received.

23 (Government's Exhibit 107Q-1 received in evidence)

24 MR. MARK: May we publish it, your Honor?

25 THE COURT: Yes.



Iabdgat1

Gassnola - direct

1 BY MR. MARK:

2 Q. What is date of this text message?

3 A. June 3, 2017.

4 Q. So just a few days after the commitment that you learned  
5 about from Mr. Dawkins?

6 A. Yes.

7 Q. Could you just read what you wrote to Coach Pitino?

8 A. "Hall of Famer. Hope you are in a good place. Bowen will  
9 help. Talk soon."

10 Q. What, if anything, did you say to Coach Pitino about Adidas  
11 agreeing to pay Brian Bowen's family?

12 A. I didn't.

13 Q. At this point in time, as far as you knew, who knew about  
14 the agreement by Adidas to pay money to Brian Bowen's family  
15 for him to commit to Louisville?

16 A. Myself, Merl Code, Christian Dawkins, and Jim Gatto.

17 Q. Now, are you familiar with someone named Brad Augustine?

18 A. Yeah, I am.

19 Q. How did you know Brad Augustine?

20 A. Brad was a grassroots director like myself, so I had been  
21 in his company a few times at grassroots' events. We played  
22 against his team and grassroots teams. I had never introduced  
23 myself. We played against each other in grassroots' meetings.

24 Q. Was he affiliated with an Adidas program?

25 A. Yeah, he was.

Iabdgat1

Gassnola - direct

1 Q. When did it come about that you first met him in person?

2 A. In August of 2017 at Adidas Nations, Brad approached me,  
3 asked me if I would talk to the Kansas coaching staff if they  
4 had any interest in a player that he had by the name of Nassir  
5 Little.

6 Q. Now, you just mentioned Adidas Nations. What is Adidas  
7 Nations?

8 A. It is an event that the brand puts on at the end of every  
9 summer. It is an Allstar event where the top hundred players  
10 in the country, no matter what their shoe affiliation is, come  
11 to an event that we put on. You know, that year it was in  
12 Houston, and we also have a lot of college players as well.

13 Q. Was Nassir Little playing at Adidas Nations?

14 A. He was.

15 Q. What position did Mr. Little play?

16 A. He was a wing player.

17 Q. And you said that Mr. Augustine mentioned the school  
18 Kansas?

19 A. Yes.

20 Q. Who was the athletic sponsor for Kansas again?

21 A. Adidas.

22 Q. Do you know any of the coaches at Kansas?

23 A. I know all of them.

24 Q. Who is the head coach at Kansas?

25 A. Bill Self.

Iabdgat1

Gassnola - direct

1 Q. And who is the associate head coach?

2 A. Kurtis Townsend.

3 Q. After Mr. Augustine inquired about Kansas having interest  
4 in Mr. Little, did you reach out to any of the Kansas coaches  
5 about that player?

6 A. I did.

7 Q. Who did you reach out to?

8 A. I don't recall who I talked with, whether it was Kurtis or  
9 Bill Self, but when I talked to them, they didn't have at the  
10 time, they had no interest in Nassir Little.

11 Q. Did you relay that to Mr. Augustine?

12 A. I did.

13 Q. Did there come a time that you and Mr. Augustine discussed  
14 Nassir Little's interest in attending any other schools?

15 A. Yes.

16 Q. What schools were discussed?

17 A. I had a conversation with Brad, and he brought up that  
18 Nassir Little had a lot of interest in attending the University  
19 of Miami but it was between the University of Miami and  
20 Arizona.

21 Q. Who is the athletic sponsor of the University of Miami?

22 A. Adidas.

23 Q. How about for Arizona?

24 A. Nike.

25 Q. Did there come a time that you discussed with Mr. Augustine

Iabdgat1

Gassnola - direct

1 any financial assistance in connection with Nassir Little  
2 attending Miami?

3 A. Yes.

4 Q. What did you say to him and what did he say to you about  
5 that topic?

6 A. Brad brought up to me a conversation that he wanted to get  
7 paid for Nassir Little to go to Miami, and he knew what the  
8 brand had done to get Brian Bowen to Louisville.

9 Q. And when he said he knew what the brand had done for Brian  
10 Bowen, what did you understand him to be referring to?

11 A. He was aware of the payment that was made to Brian Bowen to  
12 go to Louisville.

13 Q. And, once again, did he discuss the terms that he  
14 understood that payment to be?

15 A. Yes. He knew the exact number.

16 Q. And what was the number that he mentioned to you?

17 A. A hundred thousand dollars.

18 Q. And to whom was that hundred thousand dollars to go to?

19 A. Brian Bowen.

20 Q. And when he talked about you with Nassir Little, who was  
21 the hundred thousand dollars to go to?

22 A. To the best of my recollection, it was him and the family  
23 or just him. I don't remember the exact words but it was  
24 either/or.

25 Q. Did Mr. Augustine discuss Nassir Little's family at all

Iabdgat1

Gassnola - direct

1 with you?

2 A. I don't remember exact words -- I think he did bring it up,  
3 yes.

4 Q. And how, if at all, did Mr. Augustine say to you he knew  
5 about the Brian Bowen deal?

6 A. When he brought it up, I was a little taken back, but I got  
7 pretty angry and I, you know, kind of went at him for  
8 information how he knew. And he explained to me that Christian  
9 Dawkins had told him -- had told him about the Brian Bowen  
10 situation and he could get the same if Nassir Little went to  
11 University of Miami.

12 Q. Why did you get angry at Mr. Augustine when he told you  
13 that he knew about the Brian Bowen deal?

14 A. Because I assumed that situation with Bowen would have been  
15 kept between the guys I had talked to about before and not told  
16 to somebody else. You don't really talk about that stuff.

17 Q. After this conversation with Mr. Augustine, did you reach  
18 out to anyone?

19 A. I reached out to -- I tried to get ahold of Christian  
20 Dawkins, yes.

21 MR. MARK: Your Honor, may we publish Government  
22 Exhibit 107R-3, which is in evidence?

23 THE COURT: Yes.

24 Q. Mr. Gassnola, who is this text chain between?

25 A. Text message between myself and Christian Dawkins.

Iabdgat1

Gassnola - direct

1 Q. What is the date of it?

2 A. August 9, 2017.

3 MR. MARK: And, Ms. Lee, could we just highlight from  
4 just "FYI" down to "call me tomorrow."

5 Q. Mr. Gassnola, could you just read what was exchanged  
6 between the two of you on this text chain?

7 A. "Just FYI. Your loose lips are putting me and other people  
8 in a bad spot."

9 He said, "In regards to what?" "Louisville, Bowen,  
10 money, etc. I always say great things about you. Take care of  
11 you, if possible. Etc., etc. Let's make sure that this  
12 doesn't happen again. I never mentioned your name in regards  
13 to Louisville and Bowen. There should only be a very small  
14 handful of people, never even spoke to Louisville staff about  
15 anything."

16 "Came from you, bro'. Saying exactly what Bowen got  
17 and how. Only you, me, Merl and Gatto knew that. Not smart  
18 business, telling people that. Call me tomorrow."

19 Q. After this text exchange, did there come a time that you  
20 spoke with Christian Dawkins by phone about this subject?

21 A. I think it was later that evening that me and Christian  
22 finally got together on the phone, yes.

23 MR. MARK: At this time, the government offers  
24 Government Exhibit 45 and 45T as an aid to the jury.

25 Government Exhibit 45 is a phone call from August 10,

Iabdgat1

Gassnola - direct

1 2017, between Christian Dawkins and Mr. Gassnola.

2 THE COURT: They are received.

3 The same instruction about the transcript, folks.

4 (Government's Exhibits 45 and 45T received in  
5 evidence)

6 MR. MARK: And, Ms. Lee, could we just give the jury  
7 one second to get to their binders, and then we can begin  
8 playing the call.

9 If you could play now, Ms. Lee --

10 (Audio played)

11 Q. Now, Mr. Gassnola, I just want to direct your attention up  
12 to the top of the transcript on page 2, where you said, "The  
13 best thing to do is send the kid to a contract -- I mean to an  
14 Adidas school." What does that refer to?

15 A. That I said that?

16 Q. Sorry. Is that Mr. Dawkins who said that?

17 A. Yes.

18 Q. And what did you understand Mr. Dawkins to be referring to  
19 there?

20 MR. MOORE: Objection, your Honor.

21 THE COURT: Sustained.

22 Q. Did you have a view on -- as we talked about before, about  
23 whether Adidas -- where Adidas program directors should send  
24 their players to?

25 MR. MOORE: Objection, your Honor.

Iabdgat1

Gassnola - direct

1 THE COURT: No. It is his personal view.

2 Go ahead.

3 A. That our grassroots players should go to our  
4 Adidas-sponsored schools, yes. That was my view.

5 Q. Were you discussing this in part with Mr. Dawkins?

6 A. Yes.

7 Q. What did Mr. Dawkins say, if anything, about that during  
8 this call?

9 A. He was advising Brad to do that. That's what he was  
10 advising Brad to do.

11 MR. MARK: Ms. Lee, could you continue playing the  
12 call until page 3 at line 23.

13 (Audio played)

14 Q. OK. Now, Mr. Gassnola, could we go back to page 2, at line  
15 19 to 21, and you said: "But names and money, you can't do  
16 that." What were you referring to right there when you were  
17 talking to Mr. Dawkins?

18 A. Names of players, people involved with these players, and  
19 giving money to these players, you can't do that.

20 Q. Why couldn't you do that?

21 A. People lose jobs. There is a lot of people's lives at  
22 stake with this if it got out.

23 MR. MARK: Now, Ms. Lee, could we go back to the  
24 transcript on page 3.

25 Q. And, Mr. Gassnola, at line 7, you wrote, or you said: "In



Iabdgat1

Gassnola - direct

1 your world, there's no jurisdiction."

2 What were you referring to there?

3 A. It was my opinion that in Christian's world, as a  
4 recruiter, in the agent business at the street level, that  
5 there really is no jurisdiction, you can do whatever you want.

6 Q. And then you continued on, you said: "But people could  
7 lose their jobs is all I'm saying."

8 What people were you referring to?

9 A. People at Adidas, the college coaches, and people at  
10 universities. That's what I was referring to.

11 Q. And what did you expect could happen to the players if this  
12 came out?

13 MR. MOORE: Objection.

14 THE COURT: Sustained in that form.

15 Q. Did you have an understanding of what could happen -- you  
16 just mentioned what could happen to Mr. Dawkins, what could  
17 happen to players, what could happen to Adidas.

18 THE COURT: He didn't say anything about players.

19 MR. MARK: Oh, I didn't mean to say that.

20 Q. What could happen to coaches.

21 Did you have an understanding of what could happen to  
22 players in this situation?

23 MR. SCHACHTER: Objection.

24 THE COURT: Overruled.

25 A. If it was found out that players had received money, they

Iabdgat1

Gassnola - direct

1 would be deemed ineligible. They would not be amateurs  
2 anymore.

3 MR. MARK: Ms. Lee, we could continue playing this  
4 call until the end.

5 (Audio played)

6 Ms. Lee, we can take it down.

7 Q. I'm just going to ask you, Mr. Gassnola, there are a number  
8 of different names that were mentioned during the call. If you  
9 could just help identify who they are for us.

10 There was a name Caputo mentioned. Who is Caputo?

11 A. Chris Caputo is assistant coach at the University of Miami.

12 Q. And Larranaga, who is that?

13 A. Jim Larranaga is the head coach at the University of Miami.

14 Q. Steve Pina, who is he?

15 A. He is an agent.

16 Q. Who did he work for?

17 A. Andy Miller, ASM Sports.

18 Q. Cutler was mentioned. Who was he?

19 A. Dan Cutler worked in grassroots at Adidas with us.

20 Q. And when you were mentioning "Andy," who were you referring  
21 to?

22 A. Andy Miller.

23 Q. And Sean was mentioned. Who was Sean?

24 A. Sean Miller, head coach at the University of Arizona.

25 Q. There was a reference to Balsa. Who is Balsa?

Iabdgat1

Gassnola - direct

1 A. All I know is Balsa. I don't know his last name. He was a  
2 high school player in Florida at the time.

3 Q. Do you understand where he played?

4 A. I just knew he was a high school player in Florida; that's  
5 all I knew.

6 Q. And there was reference to Porzingis. Who is Porzingis?

7 A. Kristaps Porzingis, he plays for the New York Knicks.

8 Q. And how about Dennis Smith? He was referred to as well.  
9 Who is that?

10 A. Dennis Smith plays for the Dallas Mavericks.

11 Q. OK. And was he one of the individuals whose families you  
12 arranged for payments to?

13 A. He is.

14 MR. MARK: The government now offers Government  
15 Exhibit 6 and Government Exhibit 6T as an aid to the jury.

16 THE COURT: Received.

17 The same instruction, members of the jury.

18 (Government's Exhibits 6 and 6T received in evidence)

19 MR. MARK: This is a call from August 11, 2017,  
20 between Merl Code and James Gatto.

21 Ms. Lee, could we play the call?

22 THE COURT: Yes.

23 (Audio played)  
24  
25

IAB8GAT2

Gassnola - Direct

1 MR. MARK: Can we play the call?

2 THE COURT: Yes.

3 (Audio played)

4 MR. MARK: The government offers Government Exhibit 7  
5 and 7T as an aid to the jury into evidence.

6 THE COURT: Received.

7 Same instruction, folks.

8 (Government's Exhibits 7 and 7T received in evidence)

9 MR. MARK: This is call dated August 11, 2016 which  
10 appears based on the document to be 13 minutes after the last  
11 call. The participants are the same, Merl Code and James  
12 Gatto.

13 Ms. Lee.

14 (Audio played)

15 BY MR. MARK:

16 Q. Now, Mr. Gassnola, let's switch gears and talk about a name  
17 that we just referred to earlier, Dennis Smith.

18 Where does he play again right now?

19 A. Dallas Mavericks.

20 Q. Did he play in college before that?

21 A. He did, NC State.

22 Q. Who is the athletic sponsor for NC State?

23 A. Adidas.

24 Q. Did he play in grassroots basketball before he was at NC  
25 State?

IAB8GAT2

Gassnola - Direct

1 A. He did. He played for Team Loaded.

2 Q. Who, if anyone, sponsored Team Loaded?

3 A. Adidas.

4 Q. You mentioned that you were involved in facilitating  
5 payments to Dennis Smith's family. How many payments were you  
6 involved with?

7 A. Two.

8 Q. When was the first one?

9 A. When Dennis was in high school and was an AAU player in his  
10 junior year of high school.

11 Q. Why did you consider making a payment at that point in time  
12 to Dennis Smith's family?

13 A. Andy Miller reached out to me and told me he had knowledge  
14 and a relationship with somebody in Dennis's family; that  
15 Dennis was considering moving grassroots labels and was going  
16 to go from an Adidas team to a Nike team, and that the family  
17 needed some money to stay. So I relayed that conversation to  
18 Chris Rivers at Adidas.

19 Q. Once again, Mr. Rivers was the head of grassroots at  
20 Adidas?

21 A. Yes.

22 Q. After relaying this information about the family, that you  
23 heard that the family wanted to get paid, did you take any  
24 efforts to make a payment to the family of Dennis Smith?

25 A. We went to North Carolina and had a meeting with his

IAB8GAT2

Gassnola - Direct

1 family, the father and the kid's trainer, and Rivers and the  
2 father had a conversation. On the way back to our hotel,  
3 heading to the airport the next morning, Rivers told me that he  
4 had taken care of it, that the kid was going to stay with an  
5 Adidas program, Team Loaded, and he would play the following  
6 year with us.

7 Q. Did Dennis Smith stay on an Adidas-sponsored team?

8 A. Yes.

9 Q. Mr. Gassnola, let me direct your attention to Government  
10 Exhibit 1096.

11 MR. MARK: This is already in evidence. If we may  
12 publish it to the jury.

13 Q. We were looking at this yesterday, but just once again, Mr.  
14 Gassnola, what does Government 1096 with the subject 90 days  
15 refer to?

16 A. It's a 90-day recap of my travels, people I was seeing,  
17 places I was, people I talked to.

18 MR. MARK: Ms. Lee, can we go to page 2 of this  
19 document and go down to where it says "January 20." If we can  
20 just blow up those three lines of text.

21 Q. Mr. Gassnola, could you just read what you wrote to  
22 Mr. Rivers in this e-mail here?

23 A. "AC, myself and Rivers went to Fayetteville to watch Dennis  
24 Smith, Jr. play. Worst game ever. We took the dad and trainer  
25 out to eat after. As expected they fell in love with 3stripes.

IAB8GAT2

Gassnola - Direct

1 AC had his hat on again at the table."

2 Q. What does this entry refer to?

3 A. Just a brief overview of our trip to North Carolina, our  
4 sit-down with Dennis's family.

5 Q. Is this the same trip you were just referring to that you  
6 and Mr. Rivers took down to meet with the family?

7 A. Yes.

8 Q. AC, I think that's the first time we have seen that  
9 reference. Who is AC?

10 A. Anthony Coleman.

11 Q. You took the dad and the trainer out to eat after. Who is  
12 the trainer that is referred to there?

13 A. Shawn Farmer.

14 THE COURT: Who is Anthony Coleman?

15 THE WITNESS: He worked with us at grassroots, your  
16 Honor. He was one of our marketing directors.

17 THE COURT: Thank you.

18 Q. 3stripes, is that just another way to refer to Adidas?

19 A. Yes.

20 Q. From this meeting and from other dealings with Dennis's  
21 family, what was your understanding of the relationship of  
22 Shawn Farmer to Dennis Smith's family?

23 A. He was portrayed to us that he was Dennis's longtime  
24 trainer and now the go-between between anybody who was trying  
25 to talk to the kid -- university, AAU coaches, shoe brands --

IAB8GAT2

Gassnola - Direct

1 he was the go-between between them and the family.

2 Q. Now, was this only trip you went down to see Shawn Farmer  
3 and Dennis Smith?

4 A. No. Because I was on the East Coast, it's a two-and-a-half  
5 hour flight from my airport in Hartford, Connecticut to  
6 Raleigh, so it was easy for me to go down there, watch the  
7 young man play, show that the brand had a lot of interest in  
8 him, and just show face and keep the relationship going. It  
9 was easier for me than others.

10 Q. What was your view of how talented Dennis Smith was at the  
11 time?

12 A. He was very talented.

13 Q. Did you have any expectations whether he would play in the  
14 NBA at the time?

15 A. I thought so.

16 Q. Are you familiar with the term "shoe kid"?

17 A. Yeah.

18 Q. I think you referred to that earlier in your testimony  
19 yesterday. What is a shoe kid?

20 A. A shoe kid is an athletic player, under 6-6 and under, who  
21 is very athletic and can jump quick. Most kids can relate to  
22 those guys. So that's my opinion of what a shoe kid is.

23 Q. At this point in time, did you have any view of whether  
24 Dennis Smith was a shoe kid?

25 A. I thought so.



IAB8GAT2

Gassnola - Direct

1 Q. After these trips, did there come a time that you discussed  
2 a second payment for Dennis Smith's family?

3 A. Yes.

4 Q. When was that?

5 A. In the fall of 2015, sister coach at NC State reached out  
6 to me, Orlando Early reached out to me that there were some  
7 issues surrounding Dennis and the people around him. There  
8 were certain things that were promised to the family, from who  
9 I don't know, but there was a lot of minutia around it, and he  
10 just seemed to be uncomfortable and he was having some issues  
11 with keeping that situation together.

12 Q. Mr. Early, how long had you known him before this call?

13 A. 15 years.

14 Q. Now, at this point in time, in the fall of 2015, had  
15 Mr. Smith verbally indicated where he was going to school?

16 A. He did.

17 Q. Where did he indicate?

18 A. NC State.

19 Q. Had he officially committed to NC State?

20 A. I didn't know.

21 Q. During your conversation with Mr. Early when he discussed  
22 this sort of situation that was going on with Dennis Smith and  
23 his family, how did you respond?

24 A. I could tell he was uneasy and he was having some issues.  
25 So I offered to bring him \$40,000 to calm the situation.

IAB8GAT2

Gassnola - Direct

1 Q. When you say "calm the situation," what did you think that  
2 money could do?

3 A. Just make it easier and keep people happy, whether it was  
4 the family or whoever he was referring to. I just figured that  
5 was the right thing to do for him.

6 Q. When you offered the \$40,000, how did Mr. Early respond?

7 A. I don't recall, but he didn't say no.

8 Q. Where was this \$40,000 going to come from?

9 A. Adidas.

10 Q. How did you intend to get the money from Adidas?

11 A. Ask Jimmy for it.

12 Q. Did you in fact give Mr. Early the \$40,000 that you  
13 discussed with him?

14 A. I did.

15 Q. When was that?

16 A. November 2015.

17 Q. How did you give Mr. Early the \$40,000?

18 A. I gave it to him in cash. I got on a plane, flew down to  
19 Raleigh, and met him and gave him the cash in an envelope.

20 Q. You said you delivered this in person?

21 A. I did.

22 Q. Where did you meet Mr. Early?

23 A. At his house.

24 Q. Why did you hop on a plane to deliver it in person?

25 A. I wanted to conceal it.

IAB8GAT2

Gassnola - Direct

1 Q. Who were you concerned about concealing it from?

2 A. The university.

3 Q. When you delivered this money to Mr. Early, what, if  
4 anything, did he say to you about what he was going to do with  
5 the money?

6 A. He informed me that he was giving the money to Shawn  
7 Farmer.

8 Q. Now, after you made this \$40,000 payment, did you discuss  
9 it with anyone from Adidas?

10 A. Later on, sometime after, a few days to a week, I told  
11 Jimmy what was going on.

12 Q. What did you say to Mr. Gatto and what did he say to you  
13 about that?

14 A. I just told Jimmy that there was a situation at NC State  
15 with Dennis that I had to take care of, that I gave Farmer 40  
16 grand.

17 Q. Were you reimbursed at all for this payment?

18 A. I was.

19 Q. By whom?

20 A. Jim Gatto and Adidas.

21 Q. Now, you mentioned that you wanted to conceal this payment  
22 from North Carolina State. Do colleges like North Carolina  
23 State have compliance departments?

24 A. They do.

25 Q. What is the role of these college compliance programs?

IAB8GAT2

Gassnola - Direct

1 MR. SCHACHTER: Objection.

2 THE COURT: Sustained.

3 Q. What is your understanding of the role of these college  
4 compliance programs are?

5 MR. SCHACHTER: Objection.

6 THE COURT: I will receive the evidence not for the  
7 truth of the matter, but the jury can consider it as bearing on  
8 why he made the payment in cash.

9 MR. MARK: Thank you, your Honor.

10 Q. You may answer.

11 A. Can you repeat the question again? I apologize.

12 Q. What is your understanding of what college compliance  
13 programs' roles are?

14 A. To make sure their programs stay compliant with NCAA rules.

15 THE COURT: Folks, we are going to break a little bit  
16 early. I will see you in about 15 minutes.

17 (Jury exits courtroom)

18 (Recess)

19 MR. MOORE: My client and his father stepped out to go  
20 to the rest room. May I go get them?

21 THE COURT: Yes.

22 Be seated, folks, while we wait.

23 MR. MOORE: They are on their way. I'm sorry.

24 (Jury present)

25 THE COURT: The jurors are all present. The

IAB8GAT2

Gassnola - Direct

1 defendants are present. The witness remains under oath.

2 You may continue, Mr. Mark.

3 MR. MARK: Thank you, your Honor.

4 BY MR. MARK:

5 Q. Before the break we just left off talking about a \$40,000  
6 payment that you delivered to Mr. Early in November 2015.

7 Where did you believe that money was going to go?

8 A. To Dennis Smith's family.

9 Q. Why did you make that payment?

10 A. Because I was nervous that he was going to leave NC State.

11 Q. Aside from Mr. Early, did you discuss your plan to pay  
12 money to the family of Dennis Smith with anyone else at North  
13 Carolina State University?

14 A. I did not.

15 Q. Did you discuss it with anybody at the compliance  
16 department there?

17 A. I did not.

18 Q. Why not?

19 MR. SCHACHTER: Objection.

20 THE COURT: Overruled.

21 A. Why didn't I speak to compliance? Because that wouldn't  
22 have helped anybody. It would have hurt Dennis Smith and it  
23 would have hurt the coaching staff.

24 Q. How did you expect it would hurt Dennis Smith and hurt the  
25 coaching staff?

IAB8GAT2

Gassnola - Direct

1 A. The coaches would have got fired and Dennis would have been  
2 deemed ineligible; he would never have played there.

3 Q. You mentioned this was the second payment that you were  
4 involved with to the family. The first payment you had talked  
5 about that you discussed with Mr. Rivers, right?

6 A. Yes.

7 MR. MARK: Ms. Lee, can we just bring back up  
8 Government Exhibit 1096, which is in evidence.

9 May we publish, your Honor.

10 THE COURT: Yes.

11 Q. This e-mail is between yourself and Mr. Rivers?

12 A. It is.

13 Q. I would like to go back to page 2 and the reference on  
14 January 20.

15 Who are you updating about this meeting?

16 A. Chris Rivers -- Jim Gatto and Chris.

17 Q. Can we go back to the first page.

18 What is the date of this e-mail?

19 A. March 2, 2015.

20 Q. It's from you to Mr. Rivers?

21 A. It's from me to Chris Rivers.

22 Q. And the update that you're providing includes this entry on  
23 January 20?

24 A. Yes.

25 Q. Which is an event that you attended with Mr. Rivers?

IAB8GAT2

Gassnola - Direct

1 A. Yes.

2 Q. And you discussed with him?

3 A. Yes.

4 Q. And this was the one that after which you said Mr. Rivers  
5 mentioned that there was going to be an agreement to make the  
6 \$25,000 payment to the family of Dennis Smith?

7 A. Yes.

8 Q. Did you mention that payment in this e-mail?

9 A. I did not.

10 Q. Why not?

11 A. Because I didn't want anybody to know about it.

12 Q. Anyone other than yourself and Mr. Rivers?

13 A. That's it.

14 Q. Now, let me direct your attention to a series of exhibits.

15 MR. MARK: If we can show these each to the witness,  
16 just slowly so he can take a look at the first page of each.  
17 It's Government Exhibit 306D-1, 306A-1, 306A-2, 306A-3, and  
18 306E.

19 Q. Do you recognize these documents?

20 A. I do.

21 Q. What are they?

22 A. They are bank statements from my bank account, for New  
23 England Playaz account.

24 Q. The last one, is that just a wire record?

25 A. It's a copy of a wire.

IAB8GAT2

Gassnola - Direct

1 MR. MARK: At this time the government offers  
2 Government Exhibit 306D-1, 306A-1, 306A-2, 306A-3, and 306E  
3 into evidence.

4 THE COURT: Received.

5 (Government's Exhibits 306D-1, 306A-1, 306A-2, 306A-3,  
6 and 306E received in evidence)

7 MR. MARK: Your Honor, permission to publish 306D-1.

8 THE COURT: Yes.

9 Q. You mentioned this was a bank statement for your New  
10 England Playaz program?

11 A. It is.

12 Q. Let me direct your attention to the entry at 10/30.

13 What does that entry reflect?

14 A. A withdrawal for \$40,000.

15 Q. What was that \$40,000 withdrawal for?

16 A. To give to Dennis Smith's family; it was a payment to  
17 Dennis Smith's family.

18 Q. Did you get reimbursed by Adidas for that payment?

19 A. I did.

20 Q. When you would get reimbursed, how would you get paid by  
21 Adidas?

22 A. Wires would come to my account.

23 Q. Who would approve them?

24 A. Jim Gatto.

25 Q. Let me direct your attention to the next page of this



IAB8GAT2

Gassnola - Direct

1 document.

2 MR. MARK: Your Honor, may I have just one moment?

3 THE COURT: Yes.

4 MR. MARK: I am just going to proceed. We might come  
5 back. There was a technical glitch.

6 Q. Did you in fact get reimbursed for this payment that you  
7 made?

8 A. I did.

9 Q. Now, let me direct your attention to Government Exhibit  
10 309A.

11 Do you recognize this document, Mr. Gassnola?

12 A. I do.

13 Q. What is it?

14 A. It's a Delta Airlines flight that I took from Raleigh to  
15 Hartford, Connecticut.

16 Q. Is this a statement reflecting that?

17 A. Yes.

18 Q. A statement of what?

19 A. My American Express card.

20 MR. MARK: The government offers 309A into evidence.

21 THE COURT: It's received.

22 (Government's Exhibit 309A received in evidence)

23 MR. MARK: May we publish, your Honor?

24 THE COURT: You may.

25 MR. MARK: If we could just highlight the entry down

IAB8GAT2

Gassnola - Direct

1 at 11/1, Ms. Lee.

2 Q. What is reflected in this entry on your credit card  
3 statement?

4 A. My Delta Airlines trip from Hartford, Connecticut to  
5 Raleigh, North Carolina.

6 Q. What did you do during that trip?

7 A. I gave Orlando Early \$40,000 to give to the family of  
8 Dennis Smith.

9 MR. MARK: Ms. Lee, can we turn to the next page.

10 Q. What is reflected on those entries from November 2, 2015?

11 A. My rental car when I was there.

12 Q. After you took this trip to North Carolina to deliver this  
13 money for Dennis Smith's family, did Dennis Smith play for the  
14 North Carolina State University basketball team?

15 A. He did.

16 Q. Now, fast-forward a little bit to the summer of 2017.

17 From October-November 2017 to the summer of 2017, did  
18 you discuss or continue to discuss Dennis Smith with Jim Gatto?

19 A. From time to time, yes, I did.

20 Q. Did you discuss him becoming professional?

21 A. We had conversations about that, yes.

22 Q. Did you discuss a shoe deal?

23 A. We did.

24 Q. Once again, what is a shoe deal?

25 A. A deal between the apparel brand and the athlete.

IAB8GAT2

Gassnola - Direct

1 Q. Did part of Mr. Gatto's job include signing professional  
2 players to shoe deals?

3 A. That was his job.

4 Q. From talking with Mr. Gatto, did you understand whether he  
5 made any efforts to sign Dennis Smith to a shoe deal?

6 A. He did.

7 Q. Was Mr. Gatto able to sign Dennis Smith to a shoe deal?

8 A. He was not able to sign him, no.

9 Q. Who did?

10 A. Under Armour.

11 MR. MARK: May we publish Government Exhibit 107K-5,  
12 which I believe is already in evidence.

13 THE COURT: Yes.

14 Q. Is this a text message between yourself and Mr. Gatto?

15 A. Yes.

16 Q. The date is July 4, 2017. At this point in time, was  
17 Dennis Smith a professional player?

18 A. Yes, he was.

19 Q. Had he been drafted?

20 A. He did.

21 Q. Could you just read what you wrote to Mr. Gatto?

22 A. "Wish you would tell Dennis to beat it. The disrespect is  
23 out of line."

24 THE COURT: K-5 is not in.

25 MR. MARK: I apologize. I thought I offered that with

IAB8GAT2

Gassnola - Direct

1 K-3. May we offer that into evidence?

2 THE COURT: Received.

3 (Government's Exhibit 107K-5 received in evidence)

4 MR. MARK: May we publish that again, Ms. Lee.

5 THE COURT: Yes.

6 Q. Could you just read what you wrote to Mr. Gatto in this  
7 text message?

8 A. "Wish you would tell Dennis to beat it. The disrespect is  
9 out of line."

10 Q. What were you referring to?

11 A. I felt that we had done nothing but good for Dennis Smith's  
12 family over a period of time, and I just felt that Jimmy was  
13 doing everything he could, and even going beyond what he  
14 should, to sign that kid, and I didn't think it was mutual.

15 Q. Now, changing gears a little bit. You mentioned another  
16 player yesterday whose family that you were involved in making  
17 payments to was DeAndre Ayton?

18 A. Yes.

19 Q. Who is he?

20 A. He was a former high school player and this past year he is  
21 the number-one pick in the NBA draft.

22 Q. When were you involved with making payments for the benefit  
23 of DeAndre Ayton's family?

24 A. The fall of 2015 -- the winter of 2015. Winter.

25 Q. How far along in school was DeAndre Ayton at that time?

IAB8GAT2

Gassnola - Direct

1 A. He was a junior in high school.

2 Q. How much money was involved in those payments?

3 A. \$15,000.

4 Q. Where did this money come from?

5 A. Adidas.

6 Q. To whom did you deliver the money?

7 A. A family friend of DeAndre's named Larnell.

8 Q. What did you believe Larnell was going to do with the  
9 money?

10 A. Give it to DeAndre's mother.

11 Q. Why did you give that \$15,000 payment for the benefit of  
12 DeAndre Ayton's family?

13 A. Because I felt bad for his family and I wanted to establish  
14 a relationship between him, his family and Adidas.

15 Q. Did you discuss this payment with anyone from Adidas?

16 A. Yes. I discussed it with Chris Rivers and Jim Gatto.

17 Q. After you made this payment, did DeAndre Ayton ever play at  
18 any Adidas events?

19 A. One event.

20 Q. Which one?

21 A. Adidas Nations.

22 Q. Is that the same one that you referred to that Nassir  
23 Little had played at?

24 A. The same type of event, but it was a year prior; same type  
25 of event, but it was a year prior in Los Angeles.

IAB8GAT2

Gassnola - Direct

1 Q. After you made this payment, did DeAndre Ayton ever play  
2 for an Adidas grassroots team?

3 A. He did not.

4 Q. After you made this payment, did he ever play for an  
5 Adidas-sponsored university?

6 A. He did not.

7 Q. Where did he end up playing college basketball?

8 A. University of Arizona.

9 Q. Who was the athletic sponsor for Arizona?

10 A. Nike.

11 Q. Is Arizona the same school that Brad Augustine mentioned to  
12 you with Nassir Little?

13 A. It is.

14 Q. Did DeAndre Ayton end up signing a shoe deal?

15 A. He did.

16 Q. With whom?

17 A. Puma.

18 Q. Now, I would like to talk to you about Silvio De Sousa.  
19 Are you familiar with him?

20 A. I am.

21 Q. Who is he?

22 A. Silvio De Sousa is now a sophomore at the University of  
23 Kansas.

24 Q. You mentioned earlier that Kansas is an Adidas-sponsored  
25 school?

IAB8GAT2

Gassnola - Direct

1 A. It is.

2 Q. Are you familiar with someone named Fenny Falmagne?

3 A. I am.

4 Q. Who is Mr. Falmagne?

5 A. He is Silvio De Sousa's legal guardian.

6 Q. Did there come a time that you discussed with Mr. Falmagne  
7 making any payments to him?

8 A. Yes. As I got to know Fenny, later on in our relationship,  
9 he informed me that Silvio had to leave IMG Academy where he  
10 was attending. He was going to attend online classes at night,  
11 he said night classes, and he needed money to pay for those  
12 classes.

13 Q. How much money was discussed?

14 A. \$2500.

15 Q. During your conversation with Mr. Falmagne, did he discuss  
16 any other payments?

17 A. He informed me that he was under the umbrella of a booster  
18 that was paying him a salary throughout the year, and that he  
19 was in the booster for \$60,000.

20 Q. Did Mr. Falmagne identify who the booster was?

21 A. He didn't give me a name.

22 Q. Did he identify what affiliation that booster had?

23 A. University of Maryland.

24 Q. Does the University of Maryland have an athletic sponsor?

25 A. They do.

IAB8GAT2

Gassnola - Direct

1 Q. Who is it?

2 A. Under Armour.

3 Q. When you were talking with Mr. Falmagne, where were you  
4 hoping Silvio De Sousa would play basketball?

5 A. University of Kansas.

6 Q. Did you agree to make any payment to Mr. Falmagne?

7 A. I told Fenny I would give him \$20,000 towards his \$60,000.

8 Q. Why did you do that?

9 A. Because I wanted to help the situation and make sure that  
10 the kid stayed at Kansas.

11 Q. Did you in fact make any payments to Mr. Falmagne?

12 A. I did not.

13 Q. You did not, referring to the 20,000?

14 A. I didn't give the 20,000.

15 Q. Did you make any payments in relation to the money for  
16 online courses so that he could graduate?

17 A. I did do that, \$2500.

18 Q. How did you get Mr. Falmagne that money?

19 A. I sent him cash overnight in an envelope inside a magazine.

20 Q. Have you ever met Mr. Falmagne in person?

21 A. I never have.

22 Q. Taking a step back, how did you first get put in touch with  
23 Mr. Falmagne?

24 A. Assistant coach at the University of Kansas, Kurtis

25 Townsend, reached out to me prior to my meeting Fenny asking if



IAB8GAT2

Gassnola - Direct

1 I would talk to this guy because he was looking for product for  
2 his Angola national team. He was affiliated with the Angola  
3 national team and he wanted product for that team.

4 Q. Where was Silvio De Sousa from?

5 A. Angola.

6 Q. So during this conversation you said Mr. Townsend discussed  
7 that Fenny Falmagne was looking for product for the Angola  
8 national team?

9 A. Yes.

10 Q. Product from whom?

11 A. Adidas.

12 Q. Did you discuss this situation also with any other coaches  
13 from Kansas?

14 A. I had a brief, brief conversation with Coach Self about it.

15 Q. Once again, was Coach Self the head coach at Kansas?

16 A. He is.

17 Q. From your conversation with Mr. Townsend, did you  
18 understand him to be requesting that Adidas make a cash payment  
19 to Fenny Falmagne?

20 A. No, not at all.

21 Q. From your conversation with Bill Self, did you understand  
22 Bill Self to be requesting that Adidas make a cash payment to  
23 Mr. Falmagne?

24 A. No, not at all.

25 Q. How did you respond to Mr. Townsend and Mr. Self's request

IAB8GAT2

Gassnola - Direct

1 regarding the Angola national team?

2 A. I said I would take care of it.

3 Q. Did you discuss the Angola national team with Mr. Falmagne?

4 A. I did.

5 Q. Did Adidas ever end up providing any assistance to the  
6 Angola national team?

7 A. As I can recall, I don't think so.

8 Q. Now, did Silvio De Sousa end up committing to Kansas?

9 A. He did.

10 MR. MARK: Ms. Lee, can we show to the witness only  
11 Government Exhibit 107K-10.

12 I believe this is in evidence, but just in case let's  
13 go through this again.

14 Q. Do you recognize this document?

15 A. I do. It's a test message thread between myself and Jim  
16 Gatto.

17 MR. MARK: We offer, if it's not already in evidence,  
18 Government Exhibit 107K-10.

19 THE COURT: It's received if it has not previously  
20 been received.

21 (Government's Exhibit 107K-10 received in evidence)

22 MR. MARK: May we publish?

23 THE COURT: Yes.

24 Q. Now, is the date of this text message between yourself and  
25 Mr. Gatto August 28, 2017?

IAB8GAT2

Gassnola - Direct

1 A. Yes.

2 Q. Could you just read at 12:42 what you wrote to Mr. Gatto  
3 and his response and your response back to that?

4 A. "Silvio De Sousa commits to KU today."

5 Jimmy replies back: "Stinks."

6 I reply to Jimmy: "Swings."

7 Q. Did you understand Mr. Gatto's response "stinks" to be a  
8 joke?

9 A. It was a joke amongst me and him. He said that to me quite  
10 often about a lot of things.

11 Q. Why did you think that was a joke here?

12 A. Jimmy and I talked all the time so he would make comments  
13 to me. Eli Manning stinks. That would be our conversation.

14 Q. Eli Manning is quite good, right?

15 A. I love him.

16 Q. When you wrote "swings," what does that refer to?

17 A. Sometimes throughout the days and nights I called Jimmy and  
18 he would answer the phone in a bad mood. I just hang up  
19 because he was in a mood swing. So I said swings.

20 Q. During this time, did Mr. Gatto say anything to you about  
21 his feelings toward his job at Adidas?

22 A. Jim and I had started to have conversations about that,  
23 yeah.

24 Q. What did he say to you about it?

25 A. I just knew he was uncomfortable, and I knew that he wasn't

IAB8GAT2

Gassnola - Direct

1 as happy as he had been in previous years. Jim was always  
2 happy. It seemed to me that he was not.

3 Q. Who was Mr. Gatto's boss at that time?

4 A. I'm not familiar with his last name. His first name was  
5 Michael.

6 Q. What, if anything, did Mr. Gatto say about Michael?

7 A. He was just having a hard time getting along with him,  
8 working with him. I think there was some philosophical  
9 differences.

10 Q. Now, returning to Silvio De Sousa, did you discuss any  
11 payments to Mr. Falmagne with Mr. Gatto?

12 A. I did.

13 Q. What did you say to Mr. Gatto on that subject and what did  
14 he say to you about it?

15 A. I don't remember the exact date, but the conversation was,  
16 you know, that I had to get Silvio's guy out from under his  
17 deal they had with this booster from Maryland, and I told Jimmy  
18 what it was going to cost and what we had to do to get it done.

19 Q. Did you ever discuss your plan to pay Silvio De Sousa's  
20 guardian with anyone at the University of Kansas?

21 A. No, never.

22 Q. Why not?

23 A. They wouldn't have liked it very much, and I wouldn't have  
24 done that because Silvio would have been deemed ineligible and  
25 it wouldn't have helped at all.

IAB8GAT2

Gassnola - Direct

1 MR. MARK: At this time, the government offers  
2 Government Exhibit 2 and 2-T as an aid to the jury. It's a  
3 September 11 call between James Gatto and TJ Gassnola.

4 THE COURT: Received.

5 Same instruction, members of the jury.

6 (Government's Exhibits 2 and 2T received in evidence)

7 MR. MARK: Ms. Lee, if we could play the call that  
8 begins on page 1.

9 (Audio played)

10 Q. So just going up a little bit to the beginning of the call,  
11 Mr. Gassnola. You referenced Olivia. Who is Olivia?

12 A. Olivia worked at Adidas at that time.

13 Q. And the beginning of the conversation you were having with  
14 Mr. Gatto, what did that discussion refer to?

15 A. An invoice I was waiting for. It was a new system that was  
16 being inputted, and I wasn't too familiar with it so I was  
17 having a hard time doing it to submit an invoice, and Olivia  
18 was helping me with it.

19 Q. Now, going down to the second part of this.

20 MR. MARK: Ms. Lee, if we could highlight on line 16  
21 to 17.

22 Q. "I have got to send this guy another 20 grand out on  
23 Wednesday."

24 Who is "this guy" that you were referring to?

25 A. Fenny.

IAB8GAT2

Gassnola - Direct

1 Q. If we continue on a little bit further.

2 Then you continue, "Because I have got to get him out  
3 from under this Under Armour deal."

4 What was the Under Armour deal you were referring to?

5 A. I was just referring to -- I was just kind of condensing  
6 the situation. The kid had an Under Armour affiliation and  
7 Fenny, I was just condensing it.

8 Q. You had mentioned earlier that Maryland had an Under Armour  
9 affiliation?

10 A. They did.

11 (Continued on next page)

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Iabdgat3

Gassnola - direct

1 Q. Now, did you ever make this additional payment of \$20,000  
2 to Mr. Falmagne that you were discussing with Mr. Gatto?

3 A. I did not.

4 Q. Why not?

5 A. Because of this investigation.

6 MR. MARK: Ms. Lee, we can continue playing until page  
7 4, line 14.

8 (Audio played)

9 Q. OK. Just so it's clear, on page 3 there is a reference to  
10 Coach. Who is Coach?

11 A. His dog.

12 Q. And now continuing on page 4, you are discussing your  
13 expenses. And you said, "So everything I've done this year,  
14 not the underground stuff but everything else I've done."

15 What was the "underground stuff"?

16 A. Payments to families of players.

17 Q. And had you been having discussions with Mr. Gatto about  
18 the underground stuff?

19 A. Yes.

20 Q. And what were you saying you would or wouldn't do with  
21 regards to the underground stuff?

22 A. I wouldn't put that in -- I wasn't going to put that in an  
23 expense report.

24 Q. And continue down. What were you going to put in expense  
25 reports?

Iabdgat3

Gassnola - direct

1 A. My expenses, my travel, my salary, that type of stuff, that  
2 stuff.

3 Q. And going down to page 4, line 10, Mr. Gatto said, "Put it  
4 all down, put everything down." Did that include the  
5 underground stuff?

6 MR. SCHACHTER: Objection.

7 THE COURT: Sustained.

8 Q. What did you understand Mr. Gatto to be saying about what  
9 to put down?

10 MR. SCHACHTER: Objection.

11 THE COURT: Sustained.

12 MR. MARK: Thank you, your Honor.

13 Q. Let's turn to another player, Billy Preston.

14 Are you familiar with that name?

15 A. I am.

16 Q. And you mentioned earlier that you'd also arranged payments  
17 to the family of Billy Preston?

18 A. I did.

19 Q. Where does -- where, if anywhere, does Mr. Preston  
20 currently play?

21 A. The Cleveland Cavaliers.

22 Q. Where did he attend college?

23 A. He attended University of Kansas.

24 Q. Did you and others make payments to Billy Preston's family?

25 A. Yes, myself and Jim Gatto did.



Iabdgat3

Gassnola - direct

1 Q. Who in Billy Preston's family do you know?

2 A. His mother and her partner.

3 Q. What's his mother's name?

4 A. Nicole Player.

5 Q. And what's his mother's partner's name?

6 A. Timika Kirby.

7 Q. Does she have any nicknames?

8 A. TK.

9 Q. How much money did you and Mr. Gatto give to the family of  
10 Billy Preston?

11 A. \$90,000.

12 Q. When did you and Mr. Gatto provide that money?

13 A. Between the fall and winter of 2016 and 2017.

14 Q. Who delivered money to Billy Preston's family?

15 A. I did.

16 Q. And where did the money come from?

17 A. Adidas.

18 Q. Who, if anyone at Adidas, approved you receiving this  
19 money?

20 A. Jim Gatto.

21 Q. Let's start at the beginning. With whom did you first  
22 discuss giving money to Billy Preston's family?

23 A. His mother and her partner.

24 Q. So Ms. Player and TK?

25 A. Yes, sir.

Iabdgat3

Gassnola - direct

1 Q. And when was that?

2 A. Late Night in the Phog, early October of 2016.

3 Q. And what is Late Night in the Phog?

4 A. It is the opening night of practice for the University of  
5 Kansas. It is their opening, when they start to practice and  
6 start the season.

7 Q. And is that also a recruiting event?

8 A. It is.

9 Q. Why was Billy Preston's family there at that time?

10 A. He was one of their top recruits.

11 Q. And why were you at Late Night in the Phog then?

12 A. As an ambassador with Adidas, as an outside consultant in  
13 that space, being at the University of Kansas for that late  
14 night is an important thing.

15 Q. And were you at Late Night in the Phog at Kansas with  
16 anyone else from Adidas?

17 A. Jim Gatto.

18 Q. Now, where did this initial discussion with Ms. Player and  
19 TK take place when you first discussed making a payment?

20 A. In my hotel room at the Oread Hotel in Lawrence, Kansas.

21 Q. During that conversation, what did you say and what did  
22 Ms. Player say and TK say?

23 A. I had heard for awhile that they were take money from  
24 outside influences, you know, whether it had been agents or  
25 financial people, you know, that's what I heard. So I told

Iabdgat3

Gassnola - direct

1 those ladies that from now on stop taking money from those  
2 entities and just come to me and I'll take care of it.

3 Q. And why did you want Ms. Player and TK to stop take money  
4 from other people and instead go to you?

5 A. I didn't think those other people would conceal it very  
6 good, and there was always the risk of it getting out that they  
7 were take money from agents or whoever. I just thought I could  
8 conceal it better than those other people could.

9 Q. And who were you concerned about concealing these payments  
10 from?

11 A. The coaching staff at the University of Kansas.

12 Q. And what did you expect could happen if these payments  
13 weren't concealed well?

14 A. They would lose their eligibility, people would lose jobs,  
15 and Kansas could have sanctions laid on them from the NCAA.

16 Q. What sort of sanctions could -- did the NCAA give to  
17 Kansas, in your understanding?

18 MR. SCHACHTER: Objection.

19 THE COURT: Again not for the truth of the matter but  
20 to explain why the witness did what he did.

21 A. They can be put on probation, lose scholarships, people  
22 lose jobs, financial penalties, all of the above.

23 Q. During this first conversation at the Oread Hotel with  
24 Billy Preston's family, did you give them any money?

25 A. I did not.

Iabdgat3

Gassnola - direct

1 Q. Did there come a point after this first discussion with the  
2 family that you discussed a potential payment with Jim Gatto?

3 A. The follow morning, Jim and I were on our way to the  
4 airport, and I told Jim about my conversation with the  
5 ladies -- that's what I referred to them as -- and I said -- I  
6 told Jim what I was going to do, and he said, OK, do what you  
7 got to do.

8 Q. And when he said "Do what you got to do," what did you  
9 understand him to mean?

10 A. To go ahead and take care of the family as I needed.

11 Q. And the approximately \$90,000 in payments that you said you  
12 and Mr. Gatto made, did those payments happen all at once?

13 A. No. They were throughout the year.

14 Q. As you made those throughout the year, would you discuss  
15 them with Mr. Gatto?

16 A. I would.

17 Q. Would you update him on them?

18 A. Yes.

19 Q. And how would you make those payments?

20 A. In cash --

21 THE COURT: How did you?

22 Q. How did you?

23 A. In cash or wires.

24 Q. And did you submit any requests or invoices to Adidas for  
25 that money?

Iabdgat3

Gassnola - direct

1 A. I did.

2 Q. To whom did you submit those invoices or requests?

3 A. Jim Gatto.

4 Q. And did you discuss them with Mr. Gatto?

5 A. I did.

6 Q. And to the extent that there were invoices, did they  
7 accurately reflect what they were for?

8 A. No, they did not.

9 MR. MARK: At this point in time, the government would  
10 like to just read a portion of a stipulation between the  
11 parties.

12 This is what's in evidence as Government Exhibit S-3.

13 If called as a witness at trial, a custodian of  
14 records from Adidas would testify that a series of government  
15 exhibits, which are listed in the stipulation, are true and  
16 accurate copies of documents that were obtained from Adidas.  
17 The dates, times and identifying information of senders and  
18 recipients in these emails are accurate.

19 Included in this series of government exhibits is 1023  
20 and 1040, and we offer those two exhibits at this time.

21 If we could just show it to the witness so the parties  
22 could see Government Exhibits 1023 and 1040?

23 THE COURT: Those two exhibits are received.

24 MR. MARK: Thank you.

25 (Government's Exhibits 1023 and 1040 received in

Iabdgat3

Gassnola - direct

evidence)

BY MR. MARK:

Q. All right. Now, let me direct, Mr. Gassnola, your attention -- may we publish, your Honor, to the jury?

THE COURT: Yes.

Q. Let me direct your attention to the first page of that email between Jim Gatto and Edwin Janes.

A. Yes.

Q. OK. Then we can go to the next page.

Do you recognize -- Ms. Lee, if we could just show page 2 of Government Exhibit 1023? Thank you.

Directing your attention to this document, Mr. Gassnola, what is this?

A. An invoice from myself to Adidas.

Q. OK. And to whom were your invoices submitted when you submitted them?

A. Jim Gatto.

Q. And the date on this is October 15, 2016, is that right?

A. Yes.

Q. What is the amount of this invoice?

A. \$50,000.

Q. And what is the description?

A. Basketball team tournament fees.

Q. Is that description, basketball team tournaments fee, accurate?

Iabdgat3

Gassnola - direct

1 A. No.

2 Q. How much is a team tournament fee generally?

3 A. Anywhere from 500 to a thousand dollars.

4 Q. And what was -- after October 15, 2016, did you make a  
5 payment to Ms. Player?

6 A. I did.

7 Q. What was the money referred to in this invoice at least in  
8 part for?

9 A. To give to the family of Billy Preston, I gave Nicole  
10 Player \$30,000 of this 50,000.

11 Q. And approximately when was the first payment to Nicole  
12 Player?

13 A. November -- the first week in November, if I recall  
14 correctly.

15 Q. And you mentioned that it was \$30,000?

16 A. Yes, in cash.

17 Q. OK. And how did you give Billy Preston's mother that  
18 money?

19 A. In an envelope at her hotel room.

20 Q. And where was the hotel room?

21 A. Here in New York.

22 MR. MARK: Your Honor, permission to publishing  
23 Government Exhibit 306A-1, which was already received into  
24 evidence?

25 THE COURT: Yes.

Iabdgat3

Gassnola - direct

1 Q. Mr. Gassnola, what is reflected in entry 10-21?

2 A. A wire deposit into my New England Playaz account from  
3 Adidas for \$50,000.

4 Q. And prior to submitting the invoice that we just looked  
5 about, had you had a conversation with Jim Gatto?

6 A. Yes.

7 Q. Did you discuss what you planned to do with the \$50,000?

8 A. Yes, I told him.

9 Q. And what did you tell him about it?

10 A. That I had a conversation with Nicole and that I need to  
11 give them \$30,000.

12 MR. MARK: Now, let's continue on. If we can look at  
13 the next page, at 10-31. Ms. Lee, it is I think the next page.

14 (Pause)

15 Did it freeze up on you? OK. We will proceed.

16 Q. Did you withdraw this money?

17 A. I did.

18 Q. OK. And is there a withdrawal that's reflected on your  
19 bank records?

20 A. Yes, for \$50,000.

21 Q. OK. And was that withdrawal in cash?

22 A. It was.

23 Q. And you mentioned that you gave 30,000 of those dollars to  
24 Ms. Player?

25 A. I did.



Iabdgat3

Gassnola - direct

1 MR. MARK: Ms. Lee, can we bring up Government Exhibit  
2 309C? Thank you.

3 Q. Do you recognize this document?

4 A. Yes.

5 Q. What is it?

6 A. It's a parking lot fee for parking here in the city.

7 MR. MARK: OK. The government offers Government  
8 Exhibit 309C into evidence.

9 THE COURT: Received.

10 (Government's Exhibit 309C received in evidence)

11 Q. And you said this refers to a parking lot fee. Is that on  
12 November 1, 2016?

13 A. Yes.

14 Q. And what were you doing -- did you incur that parking lot  
15 fee yourself?

16 A. Yes, I did.

17 Q. And what were you doing in New York on that date?

18 A. I was here to give Nicole Player \$30,000.

19 Q. Now, I think you mentioned that you had withdrawn \$50,000  
20 from your account?

21 A. That's right.

22 Q. 30 of which went to Nicole Player. What did rest of the  
23 money go towards?

24 A. I bought Super Bowl tickets for that coming year and FBS  
25 tickets for the college football championship.

Iabdgat3

Gassnola - direct

1 Q. Did you use those tickets?

2 A. I did not.

3 Q. What did you do with them?

4 A. I gave them to friends and colleagues in the business, some  
5 people at Adidas. My intention with the FBS tickets, we were  
6 going to have a grassroots meeting with a choice few of us, and  
7 I wanted to do it in Dallas that year at the national  
8 championship game.

9 Q. Now, did there come a point in time when you spoke with Jim  
10 Gatto about this meeting you had with Ms. Player where you gave  
11 her \$30,000?

12 A. Sometime after I -- you know, Jim and I had conversations  
13 all the time. One of my conversations was Billy Preston's  
14 family is in a good place.

15 Q. And when you would say Billy Preston's family was in a good  
16 place, what would you be referring to?

17 A. That they had gotten money from us and they are in a good  
18 place.

19 Q. Now, when did you make the next payment to Billy Preston's  
20 mother?

21 A. January 2017.

22 Q. What were you -- were you at that time?

23 A. Las Vegas, Nevada.

24 Q. What were you doing in Las Vegas?

25 A. It was our annual grassroots directors meeting in Las

Iabdgat3

Gassnola - direct

1 Vegas.

2 Q. And did you attend that meeting?

3 A. I did.

4 Q. Did NCAA representatives attend that event as well?

5 A. They did.

6 Q. When you were in Las Vegas, did you meet Nicole Player?

7 A. Yes. Nicole came and met me there, yes.

8 Q. Where did you meet her?

9 A. She came to my hotel room.

10 Q. And where were you staying?

11 A. At the SLS.

12 Q. And when you met Ms. Player at the SLS, how much money did  
13 you give her?

14 A. \$20,000.

15 Q. Was that in cash?

16 A. In cash in an envelope.

17 Q. And where did that money, that \$20,000, come from?

18 A. Adidas.

19 Q. Now, let me direct your attention to Government Exhibit  
20 309D.

21 Mr. Gassnola, do you recognize this document?

22 A. That's my credit card receipt.

23 MR. MARK: The government offers 309D into evidence.

24 THE COURT: Received.

25 (Government's Exhibit 309D received in evidence)

Iabdgat3

Gassnola - direct

1 BY MR. MARK:

2 Q. And what is reflected on this portion of the credit card?

3 A. My dates and stays at the SLS Hotel, the Nines Hotel in  
4 Portland, and how much I paid for them.

5 Q. And the SLS Hotel, is that what is reflected up here in  
6 part reflecting the time when you had met Ms. Player to give  
7 her \$20,000?

8 A. That's correct.

9 MR. MARK: And, Ms. Lee, we can take that down.

10 Q. Let me direct your attention now to Government Exhibit  
11 306A-2, which I believe is already in evidence.

12 MR. MARK: May we publish, your Honor?

13 THE COURT: Yes, you may.

14 Q. I believe you referred earlier, this is your bank statement  
15 for the New England Playaz?

16 A. It is.

17 Q. OK. And what is reflected on that January 18th entry?

18 A. A wire to my New England Playaz account in Berkshire Bank  
19 from Adidas for \$90,000.

20 Q. How did you get that \$90,000?

21 A. I submitted an invoice or asked Jim.

22 Q. Let's go down just to the next entry of note.

23 January 19th, if we could just extend that slightly,  
24 Ms. Lee. Thank you.

25 What is reflected on that entry?

Iabdgat3

Gassnola - direct

1 A. A \$27,000 -- \$27,500 withdrawal from my account.

2 Q. Is that withdrawal in cash?

3 A. It was.

4 Q. And what did you do with that \$27,500?

5 A. \$20,000 of it went to Nicole Player, and 7500 I kept in my  
6 pocket, gambled it, and went shopping.

7 Q. Once again, when did you -- where did you give her that  
8 money?

9 A. Las Vegas, Nevada, my hotel room.

10 Q. Did there come a point in time when you spoke with  
11 Mr. Gatto about this meeting with Nicole Player where you gave  
12 her 20,000 more dollars?

13 A. Sometime thereafter, I told Jimmy that Billy Preston's  
14 family was in a good place.

15 Q. Did you make additional payments to Ms. Player after this  
16 one in Vegas?

17 A. I did.

18 Q. Were any of those payments by wire?

19 A. Two of them.

20 Q. Why were those payments by wire instead of by cash like the  
21 prior ones?

22 A. Because I got lazy.

23 Q. Did you ever direct anyone else to wire money to Ms. Player  
24 or TK?

25 A. I was out of town for a certain period of time in February,

Iabdgat3

Gassnola - direct

1 I think, and Nicole needed -- seemed to be in dire straits for  
2 the money, so I instructed my fiancée to wire money from her  
3 account to TK.

4 MR. MARK: And, Ms. Lee, may we show to the witness  
5 only Government Exhibit 305B?

6 Q. Mr. Gassnola, do you recognize this document?

7 A. I do.

8 Q. What is it?

9 A. It is a copy of a wire that my fiancée Danielle sent to  
10 Timika Kirby.

11 MR. MARK: The government offers Government Exhibit  
12 305B into evidence.

13 THE COURT: Received.

14 (Government's Exhibit 305B received in evidence)

15 MR. MARK: Now, Ms. Lee, could we just highlight the  
16 effective date in the middle of the document. That's great.

17 Q. Is the effective date February 24, 2017 and the amount  
18 \$20,000?

19 (Pause)

20 Is that right?

21 A. Yes. I apologize. Yes, \$20,000.

22 Q. And the originator, Danielle Labarre, is that your fiancée?

23 A. It is.

24 MR. MARK: And, Ms. Lee, if we could just go to the  
25 next page, where it says "Beneficiary."

Iabdgat3

Gassnola - direct

1 Q. Who is Timicha Kirby?

2 A. Nicole Player's partner.

3 Q. Is that the woman who is also known as "TK"?

4 A. Yes.

5 Q. And there is a reference noted there to "basketball camp."

6 Is that reference for that payment accurate?

7 A. No, it is not.

8 Q. Why does it say basketball camp?

9 A. We needed a reference when Danielle called me, and I just  
10 instructed her to say basketball camp.

11 Q. Did you tell your fiancée what this payment was for?

12 A. Oh, I don't recall.

13 Q. Did you ever get reimbursed for this wire payment that you  
14 had your fiancée send to Timicha Kirby?

15 A. I did.

16 Q. From whom?

17 A. Jim Gatto.

18 Q. And did you discuss this payment with Mr. Gatto before you  
19 got reimbursed?

20 A. The same type of situation, that Billy Preston's family was  
21 in a good place.

22 Q. Now, let me direct your attention to Government Exhibit  
23 1040, which is now in evidence.

24 Now, do you recognize what this document is?

25 A. It is an invoice from myself, with my New England Playaz

Iabdgat3

Gassnola - direct

1 account on it, to Jim Gatto.

2 Q. And the date is May 1, 2017, with an amount of \$70,000?

3 A. Yes, that's correct.

4 Q. What was the description for this invoice?

5 A. "Tournament activation fee."

6 Q. Was that description accurate?

7 A. No.

8 Q. Once again, how much is a tournament fee, typically?

9 A. 500 to a thousand dollars.

10 Q. What was this money at least in part for?

11 A. To give money to Billy Preston's family.

12 Q. Now, let me direct your attention to Government Exhibit  
13 306A-3, which is in evidence.

14 Could we look at the entry on May 31. What is  
15 reflected there?

16 A. A copy -- it is a copy of a wire from Adidas into my New  
17 England Playaz account at Berkshire Bank of \$70,000.

18 Q. Is that the same amount of money that was reflected in the  
19 invoice that we just looked at?

20 A. That's correct.

21 Q. And now let's continue on this record to an entry on  
22 June 14, 2017.

23 A. It is an outgoing wire from my New England Playaz account  
24 for \$15,000 to Nicole Player.

25 MR. MARK: And, now, Ms. Lee, could we publish



Iabdgat3

Gassnola - direct

1 Government Exhibit 306E?

2 Q. Once again, what is this document, Mr. Gassnola?

3 A. It is a copy of an outgoing wire from my New England Playaz  
4 account for \$15,000, sent to Nicole Player.

5 Q. Is this reflecting the same wires that we just looked at in  
6 the statement?

7 A. It is.

8 Q. And is the date June 14, 2017, in the amount of \$15,000?

9 A. Correct.

10 Q. And the beneficiary listed at the bottom is -- it says  
11 Nichelle Player. Is that the same person you know as Nicole  
12 Player?

13 A. Yes. I had always known her as Nicole. I had never heard  
14 of Nichelle.

15 Q. Did it send this wire to her account?

16 A. It did.

17 Q. Who, if anyone, at Adidas did you discuss this payment  
18 with?

19 A. Jim Gatto.

20 Q. Did you give Billy Preston's mother any additional money?

21 A. I did.

22 Q. Approximately how much?

23 A. \$4,000.

24 Q. When was that?

25 A. Late summer/early fall of 2017.

Iabdgat3

Gassnola - direct

1 Q. Let me direct your attention to Government Exhibit 107S-1,  
2 and 107S-5.

3 Do you recognize these two documents?

4 A. Yes. It is a text message thread between me and Nicole  
5 Player.

6 MR. MARK: The government offers them, Exhibit 107S-1,  
7 and 107S-5.

8 MR. SCHACHTER: Your Honor, may we have just a moment?

9 THE COURT: All right.

10 MR. SCHACHTER: No objection, your Honor.

11 THE COURT: Received.

12 (Government's Exhibits 107S-1 and 107S-5 received in  
13 evidence)

14 MR. MARK: Your Honor, permission to publish first  
15 Government Exhibit 107S-1?

16 THE COURT: Yes.

17 Q. Mr. Gassnola, could you just read the top portion from the  
18 text chain on August 15, 2017?

19 A. "All is well. Got Billy a car. Gonna drive it down to KU  
20 on Saturday. What kinda car did you get him? You're a great  
21 mama. I got him a Dodge Charger. Love it."

22 Q. Now, could we just continue down to the portion of the text  
23 chain on -- from Friday, September 22, 2017.

24 If we could just -- if you could just read what you  
25 wrote, starting at "have"?

Iabdgat3

Gassnola - direct

1 A. Say that again.

2 Q. From your side of the chain, just what you wrote that's  
3 been highlighted.

4 A. "Have money for you, 4K. Gonna send it late today, early  
5 tomorrow when I get out of Atlanta."

6 Do you want me to read hers, too?

7 Q. Sure. You can just read her response.

8 A. "OK. Couldn't remember what you told me. Did something  
9 change from what you told me yesterday?"

10 Q. OK. And then you wrote: "No, get 4K in your account early  
11 Tuesday"?

12 A. Yes.

13 Q. And with respect to all the payments that you made to the  
14 family of Billy Preston, who at Adidas did you discuss them  
15 with?

16 A. Jim Gatto.

17 Q. What, if anything, did Mr. Gatto say about whether he  
18 approved them?

19 A. He approved them.

20 Q. And with respect to all the payments you've told us about  
21 to the family of Billy Preston, what, if anything, did you say  
22 about them to anyone at the University of Kansas?

23 A. Never a thing.

24 Q. When did you first hear about this investigation?

25 A. September 26.

Iabdgat3

Gassnola - direct

1 Q. And who did you learn about this investigation from?

2 A. Dan Cutler and Chris Rivers.

3 Q. After learning about this investigation, did you transfer  
4 any money?

5 A. I did.

6 Q. How much?

7 A. \$38,000.

8 Q. From what account to what account?

9 A. My New England Playaz account to my fiancée's account.

10 Q. Is the New England Playaz account that you transferred  
11 money from the one that we have been looking at a lot today?

12 A. It sure is.

13 Q. Did you attempt to communicate with anyone upon learning of  
14 this investigation?

15 A. I attempted to communicate with Rick Pitino at the  
16 University of Louisville via text the day that I found out  
17 about all of this and my attorney.

18 Q. And why did you reach out to Coach Pitino?

19 A. Everything had hit me. I was coming through the airport,  
20 and I was just looking for information. So instinctively, I  
21 don't know, I reached out to him. I'm not sure why at this  
22 time I did but I texted him.

23 Q. And you mentioned that you made that transfer from your  
24 account that we've been talking about to Ms. Labarre's account.  
25 Why did you make that transfer?

Iabdgat3

Gassnola - direct

1 A. Because I had been doing the exact same thing and I figured  
2 it was a matter of time before you guys knocked on my door.

3 Q. Did Ms. Player also reach out to you on this date?

4 A. She did.

5 Q. Did there come a time after September 26th or after  
6 September 2017 when you spoke again with Ms. Player?

7 A. Yes.

8 Q. Who initiated the contact?

9 A. She did.

10 Q. What, if anything, did she say about why she was initiating  
11 contact with you?

12 A. She -- Billy had the University of Kansas. She had met  
13 with the University of Kansas' lawyers, and she was telling me  
14 that she was going to tell them that me and her had a -- a  
15 relationship. Therefore, it was OK that I was -- of the money  
16 I was giving her because she was telling them that we were  
17 intimate and hoped that it doesn't bother my fiancée. I said,  
18 "OK, Nicole. Great. Thanks."

19 Q. Was that accurate at all?

20 A. No.

21 Q. And just so it's clear, what did she say to you about what  
22 was her concern?

23 A. Can you repeat that question?

24 Q. What if anything did she say to you was her concern with  
25 Kansas?

Iabdgat3

Gassnola - direct

1 A. That they were going to find out about the money that I had  
2 given her.

3 MR. MARK: Ms. Lee, may we publish Government Exhibit  
4 107S-5, which was just received into evidence.

5 And could we just highlight the top, from 5:37 to  
6 5:39. Just a littler higher. Great.

7 Q. Could you just read for us what Ms. Player wrote to you and  
8 how you responded?

9 A. "My kid can't play." I wrote, "This is awful."

10 Q. You don't need to use the curse words.

11 A. "Who you telling?" She says. "I can only say I am sorry  
12 so much." Nicole, "I'm sorry". "It's OK." "Is he OK?" "No,  
13 he's distraught." "I don't know what to say" was my reply.

14 Q. Could we go down on the chain and continue down.

15 What did you write?

16 A. "I was always just trying to help you, to avoid the exact  
17 situation."

18 Q. And what situation were you referring to there?

19 A. Her taking money, payments to her and her family.

20 Q. And what had she just told you about what happened to her  
21 son?

22 A. That he wasn't able to play.

23 MR. SCHACHTER: Objection.

24 THE COURT: Overruled.

25 Q. And now could we continue onto the next page and just

Iabdgat3

Gassnola - direct

1 highlight what is from 6:23 to 6:32.

2 Could you read what she wrote to you and your  
3 response?

4 A. "So because you didn't talk to KU, Billy can't play." I  
5 put question mark and call you in 20 minutes.

6 Q. Did you in fact speak with her?

7 A. I did.

8 Q. When you spoke with her, what did she say to you and what  
9 did you say to her?

10 A. That I needed to speak to the university attorneys and tell  
11 them that nothing happened between me and her in reference to  
12 money, that Billy never -- that she never got any money.

13 Q. When you say "the university attorneys," are you talking  
14 about Kansas University attorneys?

15 A. Yes.

16 Q. Now, could we continue on down the chain, and just  
17 highlight from 2:40 to 2:41.

18 This is now dated November 16, 2017.

19 A. "Hey, hope all is well. Did your lawyer get a chance to  
20 get a statement to their lawyer? Yes."

21 Q. And had you discussed prior to this text message with  
22 Ms. Player a statement going to Kansas' lawyer?

23 A. Yes.

24 Q. What had you discussed with Ms. Player about that?

25 A. That I would instruct my attorney to write a letter to the

Iabdgat3

Gassnola - direct

1 Kansas attorneys saying that nothing went on financially  
2 between myself and her.

3 Q. And did you direct anyone to make a statement to the  
4 University of Kansas on your behalf?

5 A. I directed my attorney, Danny Kelly, to write a letter  
6 saying just that.

7 Q. And when you say "just that," what did you direct him to  
8 say?

9 A. That there was no improprieties, that there was no money  
10 given to Billy Preston or the family, therefore he should be  
11 able to play.

12 Q. And was that true, were there no improprieties related to  
13 Billy Preston?

14 A. Absolutely not. It was not true.

15 Q. And at this point in time, had you been approached by law  
16 enforce.

17 A. I had.

18 Q. Had you started your cooperation with the government?

19 A. No.

20 Q. Why did you ask your attorney, Dan Kelly, to lie to the  
21 University of Kansas about Billy Preston and Nicole Player?

22 A. Because I didn't want it to be found out. I wanted Billy  
23 to play, and I didn't want anybody at Kansas, the coaching  
24 staff, to find out that I did that.

25 MR. MARK: No further questions, your Honor.



IABDGAT3

Gassnola - cross

1 THE COURT: All right. Thank you.

2 Cross-examination.

3 MR. SCHACHTER: Thank you, your Honor.

4 CROSS-EXAMINATION

5 BY MR. SCHACHTER:

6 Q. Good afternoon, Mr. Gassnola.

7 A. Good afternoon.

8 Q. Hi. My name is Mike Schachter and I represent Jim Gatto.

9 Sir, Adidas is a multi-billion-dollar company, is that  
10 correct?

11 A. Yes.

12 Q. It makes sports apparel?

13 A. They do.

14 Q. For a lot of different sports, is that correct?

15 A. That's correct.

16 Q. Everything, soccer, running, tennis, you name it?

17 A. Yep.

18 Q. And everyday clothes as well?

19 A. Yes.

20 Q. And one of the types of apparel that Adidas sells is  
21 basketball merchandise, is that correct?

22 A. They do sell basketball merchandise, yes, they do.

23 Q. Do you understand that to be a relatively small business  
24 line at Adidas? Do you know one way or the other?

25 A. I don't.

IABDGAT3

Gassnola - cross

1 Q. OK. You spoke about some of the ways that Adidas markets  
2 its basketball apparel when Mr. Mark was asking you questions.

3 Sir, they do, they market basketball apparel in a  
4 number of different ways, is that correct?

5 A. I'm not exactly an expert on it, but, yes, they do. I  
6 don't really pay attention to it, to be honest with you, but  
7 yes.

8 Q. You mentioned that one way is through endorsement deals  
9 with NBA players, is that right?

10 A. That's correct.

11 Q. They have, for example, relationships with, like, Kobe  
12 Bryant or James Harden of the Houston Rockets, is that right?

13 A. James Harden, yes.

14 Q. I'm sorry, I misspoke.

15 So there is the NBA component of it. And then Adidas  
16 also sponsors colleges, is that correct?

17 A. They are in partnership agreements with universities,  
18 that's correct.

19 Q. Do you understand that as part of those partnership  
20 agreements, Adidas pays millions of dollars to those  
21 universities for the right to be that sponsor?

22 MR. MARK: Objection.

23 THE COURT: Sustained.

24 Q. Well, I think when Mr. Mark was asking you questions, he  
25 asked you about the relationship that Adidas has, for example,

IABDGAT3

Gassnola - cross

1 with the University of Kansas. Do you recall those questions?

2 A. Yes, I do.

3 Q. And can you describe to the jury what is the nature of that  
4 relationship?

5 A. Between basketball and Adidas?

6 Q. Yes, at the University of Kansas.

7 A. Could you rephrase that question again? I'm sorry.

8 Q. Sure. Can you describe your understanding of the nature of  
9 the relationship between Adidas and the University of Kansas?

10 A. The only understanding that I have is the relationship that  
11 we in the basketball marketing department had with the  
12 University of Kansas coaching staff. I never had a  
13 relationship with anybody outside that with Kansas.

14 Q. Do you understand that there is an Adidas logo on the  
15 Kansas basketball team Jersey?

16 A. I sure do.

17 Q. Do you understand that Adidas pays money in order to have  
18 that logo on the Kansas Jersey?

19 A. I understand that.

20 Q. Do you know if that amount is in the millions?

21 MR. MARK: Objection.

22 THE COURT: Sustained.

23 Now, Mr. Schachter, when I sustain an objection,  
24 that's for good. Do you understand? We don't just recycle it  
25 a few minutes later.

IABDGAT3

Gassnola - cross

1 MR. SCHACHTER: OK. I'm sorry, your Honor.

2 All right. Your Honor, may I be heard for just a  
3 moment, please?

4 THE COURT: No.

5 BY MR. SCHACHTER:

6 Q. OK. Do you understand, sir, that Adidas has its logo on  
7 the Kansas Jersey so that it can be associated with a winning  
8 team; is that your understanding?

9 A. They have their logo on the Jersey. Whether they win or  
10 lose, the logo is still on there.

11 Q. Sure. But is the University of Kansas a successful  
12 basketball team?

13 A. Very successful.

14 Q. And how about the University of Louisville, is that a  
15 successful everything basketball team?

16 A. Yes.

17 Q. And does the University of Louisville basketball team's  
18 Jersey also have an Adidas logo on it?

19 A. Yeah. Yeah, it does.

20 Q. Now, Adidas also, talking about NBA and college, and then  
21 Adidas also does something called grassroots marketing, is that  
22 correct?

23 A. Correct.

24 Q. And you described that in your direct examination to some  
25 extent, is that correct?

IABDGAT3

Gassnola - cross

1 A. Mm-hmm.

2 Q. And, I'm sorry, you need to answer out loud just for the  
3 court reporter.

4 A. I apologize. Yes, I did.

5 Q. And grassroots marketing, that means support for teams at  
6 the youth and high school level, is that right?

7 A. I would agree with that, yes.

8 Q. You are familiar with something called the AAU?

9 A. Very much so.

10 Q. And what does that stand for?

11 A. Amateur Athletic Union.

12 Q. And that is a summer league, is that correct?

13 A. It can be all year long. It can be 12 months.

14 Q. Can you describe to the jury, what is relationship between  
15 that AAU summer league -- or AAU league and college basketball  
16 recruiting?

17 THE COURT: If any.

18 A. Because there's live periods where the universities can go  
19 watch kids play on their summer teams -- because kids are in  
20 school in the wintertime, so you have spring and you have  
21 summer. There are different weeks that are live events where  
22 the colleges can go see them. So it is very important that if  
23 an Adidas college is watching, an Adidas grassroots program  
24 that's sponsored by Adidas, and they see the kids playing,  
25 there is some sort of synergy there.

IABDGAT3

Gassnola - cross

1 Q. Thank you. And so college coaches and scouts will attend  
2 summer tournaments at the AAU level, is that correct?

3 A. Correct.

4 Q. Now, Nike and Under Armour, do you understand they do the  
5 same kind of marketing?

6 A. I understand that.

7 Q. Nike enters into endorsement deals with NBA players, is  
8 that correct?

9 A. Yeah. Yes, they do, yeah.

10 Q. And Nike sponsors way more colleges than Adidas does, is  
11 that correct?

12 MR. MARK: Objection.

13 THE COURT: Sustained.

14 Q. And Nike and Under Armour also do grassroots marketing, the  
15 kind that you described with Mr. Mark, is that correct?

16 A. They do.

17 Q. Now, you talked a little bit about Jim's - Jim Gatto's role  
18 at Adidas and his boss. I believe Mr. Mark asked you about  
19 that. Do you recall that?

20 A. Yep.

21 Q. In 2017, the person that was in charge of basketball at  
22 Adidas was a man named Kris Aman, is that correct?

23 A. That's correct.

24 Q. Jim was not the person in charge of basketball at Adidas,  
25 is that correct?

IABDGAT3

Gassnola - cross

1 A. That's correct.

2 Q. And you mentioned that Jim's boss was somebody named  
3 Michael; do you remember that?

4 A. I remember that.

5 Q. And do you recall that that person's name is Michael  
6 Ladinig?

7 A. I heard his name pronounced 17 different ways.

8 Q. OK.

9 A. So I have no idea what this guy's last name was.

10 Q. We'll try it that way.

11 Do you know that that Michael, whoever you pronounce  
12 his name, perhaps Ladinig, was a senior director in charge of  
13 global basketball sports marketing at Adidas?

14 A. I never knew that. I just knew that he was over Jimmy.  
15 That is my lingo, how I thought of it.

16 Q. I see. Did you understand -- regardless of whether or not  
17 you knew his title, did you understand that this guy Michael  
18 was the person that was actually in charge of marketing for  
19 basketball?

20 A. I had some knowledge of it, yes, but I referred to him in  
21 my mind as above Jimmy.

22 Q. OK. So Jim was not the person that was in charge of  
23 basketball sports marketing at Adidas, that was this person  
24 Michael, his boss, is that correct?

25 MR. MARK: Objection. Asked and answered.

IABDGAT3

Gassnola - cross

1 THE COURT: Sustained.

2 BY MR. SCHACHTER:

3 Q. Jim worked in basketball sports marketing, is that correct?

4 A. Yes.

5 Q. And you described that you are familiar with, to some  
6 extent, Jim's job at Adidas, is that correct?

7 A. I think I'm familiar with it, yeah.

8 Q. And within basketball sports marketing, Jim was mostly  
9 focused on marketing by arranging for NBA players to wear  
10 Adidas shoes and apparel, is that correct?

11 A. Jim's first job -- his major job in my mind, that's my own  
12 thought -- was to handle NBA athletes and sign them and  
13 maintain a relationship. I did know that, yeah.

14 Q. That was the main part of job, is that correct?

15 A. That is correct.

16 Q. But part of his job was also to support the colleges that  
17 Adidas sponsored, is that correct?

18 A. Yes.

19 Q. And you described yourself as sort of reporting to Jim, is  
20 that correct?

21 A. I reported to Jimmy.

22 Q. And that was part of your job, is that correct? You would  
23 describe your job, in part as, doing whatever it took to help  
24 the Adidas-sponsored schools, is that correct?

25 A. I reported to Jimmy. OK.



IABDGAT3

Gassnola - cross

1 MR. MARK: Objection.

2 THE COURT: Overruled. It has been answered.

3 A. Repeat the question.

4 Q. You say you reported to Jim, is that correct?

5 A. That is correct.

6 Q. And I just want to discuss with you your role, what you did  
7 reporting to Jim, is that correct? Do you understand what I am  
8 asking?

9 A. I'm following you so far.

10 Q. OK. And, sir, is it true that as part of -- you viewed  
11 your job as doing whatever it took to help Adidas-sponsored  
12 colleges?

13 MR. MARK: Objection.

14 THE COURT: Sustained.

15 Q. Well, certainly you understood that part of your -- you  
16 viewed part of your job as supporting the Adidas-sponsored  
17 colleges, is that correct?

18 MR. MARK: Objection.

19 THE COURT: I think you are going to have to be a  
20 little bit more specific.

21 MR. SCHACHTER: OK.

22 Q. OK. Part of your job included helping the Adidas colleges  
23 recruit top high school basketball players, is that correct?

24 A. Part of my job, yes.

25 Q. Now, you said that there was another Adidas employee named

IABDGAT3

Gassnola - cross

1 Chris Rivers. Do you remember testifying about him?

2 A. Sure do.

3 Q. And Mr. Rivers you described as the director of grassroots  
4 marketing, is that correct?

5 A. I said director of grassroots basketball, yes.

6 Q. And his responsibility -- it was his responsibility to  
7 decide which summer and -- or which AAU and high school  
8 basketball teams Adidas would provide money to, is that  
9 correct?

10 A. He was the boss, yes. It was his job in that space, yes.

11 Q. Now, you said, sir, that -- I should say, in addition to  
12 providing money to these high school and AAU basketball teams,  
13 Adidas would also provide merchandise to those teams, is that  
14 right?

15 A. Right, yep.

16 Q. And you are familiar with that because you ran one of these  
17 AAU teams, is that correct?

18 A. I ran the same program, yes.

19 Q. Your team was called the New England Playaz, is that right?

20 A. Correct.

21 Q. That's P-l-a-y-a-z, right?

22 A. I only went to high school. I didn't go to college.

23 Q. OK. Very good.

24 Now, many of the -- and how long did you do that for,  
25 did you run the New England Playaz?

IABDGAT3

Gassnola - cross

1 A. 15 years.

2 Q. Fair to say that many of the kids on your team came from  
3 rough backgrounds, is that correct?

4 MR. MARK: Objection.

5 THE COURT: Sustained.

6 Q. Well, many of the kids on your team did not have a lot of  
7 money; is that fair to say?

8 MR. MARK: Objection.

9 THE COURT: Sustained.

10 Q. Is it true, sir, that you gave money to some of the players  
11 on your AAU team?

12 A. For what?

13 Q. Well, Martin -- you can tell us for what, but did you from  
14 time to time give money to some of the players on your AAU  
15 team?

16 A. I did.

17 Q. And can you describe to the jury for what, what kinds of  
18 things?

19 A. I've had kids over the years who did come from  
20 single-income families, single-parent homes, and --

21 MR. MARK: Objection. Move to strike.

22 No objection to the purpose of it -- I mean, no  
23 objection to where it went but as to the whole explanation.

24 THE COURT: Yes. Strike the answer.

25 BY MR. SCHACHTER:

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Gassnola - cross

1 Q. OK, sir. Why don't we try it this way.

2 Could you explain to the jury what you provided money  
3 to those families or kids for but without describing their  
4 backgrounds?

5 MR. MARK: Objection. Relevance.

6 THE COURT: Sustained.

7 MR. SCHACHTER: Your Honor, may I be heard on that?

8 THE COURT: Sure.

9 (Continued on next page)

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IABDGAT3

Gassnola - cross

1 (At the sidebar)

2 THE COURT: Mr. Schachter.

3 MR. SCHACHTER: Your Honor, the government --  
4 according to the government's theory, each of these payments is  
5 criminal activity. I should certainly be able to explore with  
6 this witness, a government cooperating witness, his prior  
7 activity that the government considers to be criminal. The  
8 government's theory is that each time money is paid to an  
9 athlete, it renders that child ineligible, and, therefore, the  
10 result of that would be it would defraud colleges out of these  
11 athletic scholarships that they would be obtaining. So this  
12 is, according to the government, criminal activity that I  
13 should be able to explore with a cooperating witness what's the  
14 activity that you engaged in that is criminal.

15 MS. DONNELLY: I hate to interrupt.

16 THE COURT: One lawyer at a time.

17 MS. DONNELLY: Sorry.

18 THE COURT: Mr. Mark.

19 MR. MARK: I mean, I think, your Honor, Mr. Schachter  
20 has already elicited the witness gave money. That is not an  
21 issue in dispute. I don't think we need to get into what that  
22 money was for for this purpose. These are -- I don't think  
23 there is any dispute that these are NCAA violations that are  
24 being conducted here, and the witness will say that.

25 THE COURT: I'm sorry. You said what? You don't

IABDGAT3

Gassnola - cross

1 think there is any dispute that?

2 MR. MARK: That these were NCAA violations and the  
3 witness would say that. We don't need to go down to what all  
4 each of these payments were for.

5 MR. SCHACHTER: Your Honor, it also goes to the  
6 existence of a conspiracy, what was his state of mind when he  
7 made all the different payments, similar payments that he had  
8 made in the past.

9 THE COURT: Mr. Schachter, you opened -- your  
10 colleague -- by basically attempting to pitch this argument:  
11 These are poor kids. They come from ghettos. They are very  
12 needy. Colleges and universities are making millions of  
13 dollars. And, therefore -- now I'm inserting, you didn't say  
14 this in so many words -- therefore, the jury, regardless of  
15 what actually happened here, should nullify because the NCAA  
16 rules are unfair and unjust, which maybe they are and maybe  
17 they aren't, but that's the pitch.

18 MR. SCHACHTER: No, your Honor --

19 THE COURT: You don't interrupt me, Mr. Schachter.

20 MR. SCHACHTER: I apologize.

21 THE COURT: That's the pitch.

22 Now, this man has testified for almost two days about  
23 tens and indeed hundreds of thousands of dollars of illegal  
24 payments that he facilitated, allegedly, with your client.  
25 There is no doubt whatsoever that he has committed or

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Gassnola - cross

1 participated in the commission of innumerable NCAA rules  
2 violations. And I take the effect, and in all likelihood,  
3 given the opening, the purpose of this line of examination to  
4 be to solicit either jury sympathy or nullification, and I'm  
5 excluding it under 403.

6 And if I hear another word about it, there is going to  
7 be a problem.

8 MR. SCHACHTER: Your Honor, for the record, I need to  
9 make clear that my argument is not nullification. My argument  
10 is whether or not the activity is an NCAA rule violation or it  
11 is wire fraud hinges on whether or not in their mind at the  
12 time that they are making these payments they are thinking  
13 about defrauding universities or whether there is something  
14 different on their mind. My intention --

15 THE COURT: You examined him about the tens of  
16 thousands of dollars that he paid to Billy Preston and Bowen  
17 and all these other people. We're not going down the line you  
18 started on, and where you started was these are kids from tough  
19 neighborhoods, single family -- single-parent families. We are  
20 just not going to do that, Mr. Schachter, and that's the end of  
21 the subject. Have I been clear?

22 MR. SCHACHTER: You have been crystal clear, your  
23 Honor. I just wanted the opportunity to explain it in my  
24 thinking.

25 THE COURT: All right.

IABDGAT3

Gassnola - cross

1 (In open court)

2 THE COURT: Go ahead, Mr. Schachter.

3 BY MR. SCHACHTER:

4 Q. OK, sir. There was a point in time where there was a  
5 newspaper article in which your management of the New England  
6 Playaz was discussed, is that correct?

7 A. There sure was.

8 Q. And included in that article was discussions about, in  
9 particular, a small payment that you had made to a family  
10 associated with sending that child to Disney World, is that  
11 correct?

12 MR. MARK: Objection. This is the same line of  
13 questioning.

14 THE COURT: It is. Sustained.

15 Q. The payments that you describe having made to the players  
16 on your AAU team, those payments would have affected the  
17 eligibility of -- potentially affected the eligibility of those  
18 players to play in college, is that correct?

19 A. Yes.

20 Q. And you I believe described that more than 150 of the  
21 players that were on your team went on to play -- get athletic  
22 scholarships and play in college, is that correct?

23 A. Yes.

24 Q. Now, after this article came out in the Boston Globe -- I'm  
25 sorry, that was around 2006, is that correct?



IABDGAT3

Gassnola - cross

1 A. Somewhere around there, yeah.

2 Q. And in the years after -- well, withdrawn.

3 Sir, even after that article came out, Adidas entered  
4 into a sponsorship arrangement with the New England Playaz, is  
5 that correct?

6 A. They stayed loyal to me after that article, that's correct.

7 Q. And the person who was in charge of managing Adidas'  
8 relationship with the New England Playaz, that was a man  
9 named -- can you hold on for one second, please? I'm sorry.  
10 One moment, please.

11 THE COURT: Mm-hmm.

12 Q. Daren Kalish, is that correct, K-a-l-i-s-h?

13 MR. MARK: Objection just as to the timing.

14 THE COURT: I'm sorry?

15 MR. MARK: Just as to the timing, if we could get a  
16 clarification?

17 MR. SCHACHTER: I will clarify.

18 Q. In 2006, the person that was responsible for grassroots  
19 marketing at Adidas was a man named Daren Kalish, is that  
20 correct?

21 A. Daren gave me my first contract, that's right.

22 Q. And he was in charge of grassroots marketing at Adidas in  
23 2006, around the time that this Boston Globe article came out,  
24 is that right?

25 A. That's right.

IABDGAT3

Gassnola - cross

1 Q. And after that Adidas' relationship with the New England  
2 Playaz continued?

3 A. It did.

4 Q. Now, the government showed you an exhibit, 107K-4.

5 Can we just see that briefly? This is in evidence.

6 And in this -- this is a text message between you and  
7 Jim on -- I'm sorry, June 1, 2017, is that correct?

8 A. Yep.

9 Q. And you had sent him some kind of a ranking which was  
10 reporting on the success of your kids' basketball program, is  
11 that correct?

12 A. It was a weekly ranking where my team was ranked that  
13 particular week. One of my an assistants sent it to me. So we  
14 were number five in the country then.

15 Q. That is among how many teams? Do you have any idea how  
16 many teams are within that ranking?

17 A. I don't know.

18 Q. But your team was ranked very successfully?

19 A. That week.

20 Q. And you forwarded that to Mr. Gatto, correct?

21 A. Sure did.

22 Q. And then you wrote, "Six years ago NCAA shut me down. Five  
23 years ago Robbins cut me. Appreciate you, man." Right?

24 A. Yep.

25 Q. All right. And you describe that you had -- you dealt with

IABDGAT3

Gassnola - cross

1 an NCAA investigation, is that correct?

2 A. I did.

3 Q. And there was -- the result of that was a one-year  
4 suspension, is that correct?

5 A. I was banned from NCAA events as I was fighting that  
6 particular ban. I don't know if there was ever a suspension  
7 but I was fighting them.

8 Q. I see. So you were temporarily suspended while that was  
9 ongoing, and then ultimately you persuaded the NCAA that there  
10 had been no -- nothing improper, is that correct?

11 A. Persuaded them?

12 Q. Well, they concluded that. Withdrawn. Withdrawn.

13 And then you said that five years ago Robbins cut you,  
14 and that's a man named Jeff Robbins, is that correct?

15 A. Yep.

16 Q. And Mr. Robbins, fair to say that you and he had a  
17 personality clash?

18 A. Yeah. We don't like each other at all.

19 Q. And he -- OK. But he wasn't the only person that you dealt  
20 with at Adidas, is that right?

21 A. That's right.

22 Q. You also, as you said, worked with Chris Rivers?

23 A. I worked with Chris Rivers and Jim Gatto.

24 Q. And then also from time to time you would interact with  
25 Chris McGuire, is that correct?

IABDGAT3

Gassnola - cross

1 A. From time to time.

2 Q. He was the senior director of U.S. sports marketing, is  
3 that right?

4 A. Here we go again. I don't know all this lingo.

5 Q. That is fine. If you don't know the answer, then it is OK  
6 just to say you don't know.

7 A. I don't know.

8 Q. You also worked with somebody named Jim Murphy at Adidas?

9 A. Yeah.

10 Q. And what was Jim Murphy's -- do you know that he was the  
11 director of U.S. sports marketing?

12 A. No, but I know you are going to tell me that.

13 Q. I'm not telling you anything. I'm just asking questions.

14 A. I don't know what his position is, what his title was, I  
15 don't know.

16 Q. What were their roles? Can you describe what Mr. McGuire's  
17 role was and Mr. Murphy's, as you understood it?

18 A. I always would refer to Chris as the head of U.S. sports  
19 marketing. Whether I was right or wrong, I have no idea.

20 I have absolutely no idea what Jim's position was. I  
21 knew he handled -- he did a lot of universities, but I never  
22 said, hey, Jim, let me have your business card, I want to go  
23 over this.

24 Q. I see. Very good.

25 Now, in 2015, you and Adidas again entered into a

IABDGAT3

Gassnola - cross

1 sponsorship agreement for your team, the New England Playaz?

2 A. Yes.

3 Q. And I would like to show you -- I would like to show the  
4 witness, I don't think it is in evidence -- Government Exhibit  
5 1053.

6 Do you recognize this?

7 A. Yes.

8 Q. And is this your sponsorship agreement with Adidas?

9 A. It is.

10 MR. SCHACHTER: We will offer Government Exhibit 1053.

11 MR. MARK: No objection.

12 THE COURT: Received.

13 (Government's Exhibit 1053 received in evidence)

14 MR. SCHACHTER: May I publish it, your Honor?

15 THE COURT: Yes, and then we are going to break for  
16 lunch.

17 MR. SCHACHTER: OK. Showing -- this is -- can you  
18 pull back, please, Mr. McCloud.

19 Q. So this is your agreement with Adidas, and this is the  
20 agreement that was entered into on February 15, 2015, is that  
21 correct?

22 A. Yep.

23 Q. And it talks about how much in merchandise you will be  
24 provided, is that correct?

25 A. Correct.

IABDGAT3

Gassnola - cross

1 MR. SCHACHTER: And then could we turn to the second  
2 page.

3 And the third page.

4 And the fourth page.

5 How about the last page. OK.

6 Q. And this agreement between you and Adidas was entered into  
7 between you and Chris McGuire, the head of sports marketing, is  
8 that correct?

9 A. Yep.

10 Q. And it was also entered into with or signed by Adidas  
11 America's general counsel, Paul Ehrlich, is that correct?

12 A. Yes.

13 MR. SCHACHTER: Your Honor, this is a convenient time  
14 to break.

15 THE COURT: Yes.

16 Members of the jury, 2 o'clock, please.

17 THE CLERK: All rise. Would the jury please come this  
18 way.

19 (Luncheon recess)  
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IAB8GAT4

## AFTERNOON SESSION

2:00 p.m.

(Jury not present)

THE COURT: I want to say something more about the ruling I made at the sidebar.

During the course of the opening statement on behalf of Mr. Gatto, counsel for Mr. Gatto went on for some time about how much money some college coaches make, how much revenue is brought in by some college teams, how much merchandise companies like Adidas make.

And then at page 71 of the transcript said, "The kids on the court, however, the ones whose blood, sweat and tears is making this game a billion dollar industry, they are not allowed to earn a dime. And the NCAA, those bureaucrats who write the rule book and have decided that the athletes themselves don't get a share --"

At that point the government objected and I sustained the objection.

Counsel continued, "The NCAA made more than a billion dollars in 2017.

"Ladies and gentlemen, we are here today because the government alleges that Jim Gatto committed two federal offenses when Adidas took a tiny portion of the money that it brought in and shared it with the families of the players on the court."

IAB8GAT4

1           And she went on from there to point to the \$40,000  
2       paid to the family of Dennis Smith and said, and I quote, "This  
3       is a family that lived in public housing down in Fayetteville,  
4       North Carolina."

5           I again sustained the objection.

6           And then a few pages later, at page 78 through 79 --  
7       and I won't read the entire context -- counsel said, "The  
8       evidence is also going to show that the families of these kids  
9       know exactly how much value their sons are worth."

10          I sustained an objection, and told counsel to talk  
11       about the case we are trying.

12          She continued by saying, "The evidence will show that  
13       these families do what any smart business person would do.  
14       They negotiate with the various colleges that are trying to  
15       recruit their sons."

16          Now, the purpose of this trial is not to determine  
17       whether the NCAA amateurism rules are good or bad. It has  
18       nothing to do with it. And in the course of the jury  
19       selection, efforts were made to ensure that we had a jury that  
20       was able to put out of their minds any views they might hold on  
21       that subject and to decide this case fairly, impartially, on  
22       the basis of the evidence put forward in this trial and the  
23       instructions of the Court at the conclusion of the trial.

24          The reason for that is because the government and  
25       these defendants are entitled to a verdict that is not swayed



IAB8GAT4

1 by extraneous considerations about the NCAA, the wisdom of its  
2 rules. The question is whether federal statutes were violated.  
3 There is a relationship of the NCAA rules to that, perhaps, but  
4 it's not the wisdom of the rules.

5 I sustained the objections during the opening because  
6 it was my view, and it remains my view, that the introduction  
7 by counsel for Mr. Gatto of the issue of the wisdom and impact  
8 of those rules on college players and others doesn't belong in  
9 this courtroom. It belongs in the NCAA or the halls of  
10 Congress or in the boardrooms of universities. It has no  
11 proper bearing on this case.

12 Now, right at the beginning of the cross-examination  
13 of Mr. Gassnola, Mr. Schachter, counsel for Mr. Gatto, began by  
14 asking, "Many of the kids on your team did not have a lot of  
15 money, is that fair to say?"

16 And of course an objection was sustained again for the  
17 same reason. It doesn't matter if they were children of Bill  
18 Gates or of welfare mothers. That's not the issue.

19 Then he went on to the subject of whether Mr. Gassnola  
20 had given money to players on his AAU teams. And I sustained  
21 objections.

22 Whether it was the intention, as I am inclined to  
23 think, or not the intention of counsel to try to elicit the  
24 sympathy of the jury for the college players who suffered  
25 adverse consequences by reason of enforcement of the NCAA

IAB8GAT4

1 rules, whether it was an invitation for the jury to put aside  
2 the evidence in this case and the law and do what counsel was  
3 suggesting in the opening statement was the equitable result,  
4 which was to overlook payment of these kids, which would have  
5 been highly improper, or something else, it was manifestly  
6 inappropriate, and that's the basis for the ruling.

7 I have very significant doubt that evidence of the  
8 kind that Mr. Gatto's lawyers opened on in this respect, and  
9 that they sought to elicit earlier, is relevant, in the sense  
10 that none of it has, in my view, any bearing, certainly any  
11 significant bearing, on whether a crime was committed here.  
12 But even if it had some small probative value, that probative  
13 value is substantially outweighed by the danger of unfair  
14 prejudice, which is defined as a tendency, evidence with a  
15 tendency to produce a verdict that is not based on the law or  
16 the evidence, but on some extraneous consideration, or  
17 confusing the issue, misleading the jury, undue delay, wasting  
18 time, or needlessly presenting cumulative evidence. In my  
19 view, all or substantially all of those factors were triggered  
20 by that attempted cross-examination. It was inappropriate in  
21 my judgment.

22 Now, I should say also that counsel suggested to me at  
23 the sidebar that, on the government's theory, every time Mr.  
24 Gassnola gave some kid on an AAU team money to go to Disneyland  
25 or to buy Cokes or anything else it was a rules violation. It

IAB8GAT4

1 may have been. The bottom line is, so what? Mr. Gassnola has  
2 testified to his involvement in the payment of tens and  
3 hundreds of thousands of dollars to high school players, or  
4 their families, to influence them to go to particular schools.  
5 Those were big violations, assuming of course they occurred.  
6 It's not my job to decide that, and I don't.

7 Any additional contribution that could possibly have  
8 been made to assessing Mr. Gassnola's credibility as a witness,  
9 by whatever happened when he was running the New England  
10 Playaz, in terms of giving some kid on the team some payment  
11 for something or other, adds nothing, or nothing significant.  
12 And I will not have it, Mr. Schachter. I will not have it.

13 OK. Now, I gather counsel had something else they  
14 wanted to raise.

15 MR. SCHACHTER: Yes, your Honor. We heard the Court  
16 loud and clear and understand the Court's concerns.

17 I raise a different issue, and I just wanted to let  
18 the Court know where I was headed in portions of the  
19 cross-examination of Mr. Gassnola just so the Court understands  
20 the purpose of some of the questions.

21 Mr. Gassnola testified that he had concealed the  
22 payments that he was making from certain college coaches and,  
23 in particular, the college coaches at the University of Kansas.  
24 Some of the questions that we will be exploring with Mr.  
25 Gassnola on cross-examination are designed to undermine that

IAB8GAT4

1 statement and to demonstrate through the evidence that in fact  
2 he had communicated with the college coaches about these  
3 payments at the University of Kansas. What the University of  
4 Kansas is and, more importantly, what the University of Kansas  
5 was to these particular defendants may be an issue that is  
6 argued before the jury, but I just wanted to let the Court know  
7 that I would be exploring with Mr. Gassnola his relationship  
8 with the Kansas coaching staff and, in particular, certain  
9 communications he had with the Kansas coaching staff, which we  
10 believe undermines his statement that he did not advise them of  
11 the payments that he was making.

12 I just wanted to let your Honor know what one of the  
13 subjects of the cross-examination would be so that your Honor  
14 would have a sense of the purpose of where I was going.

15 MR. MARK: Your Honor, we haven't heard the questions,  
16 but in general we don't have an objection to that sort of line  
17 of questioning as he describes it here.

18 THE COURT: Yes. I can't tell anything until I hear  
19 the questions, can I?

20 All right.

21 MR. MOORE: Can I ask one question? I want to make  
22 sure that I don't run afoul of your Honor's ruling, and I think  
23 I understand.

24 THE COURT: I think you do too.

25 MR. MOORE: My only point here is that the government

IAB8GAT4

1 has to prove a conspiracy to defraud the universities, and they  
2 have to prove a specific intent, we believe, to defraud the  
3 universities. One of the things that Mr. Schachter did not get  
4 to in his attempted cross-examination was a statement by Mr.  
5 Gassnola, back in 2006, that when a payment of \$100 to a star  
6 player to go to Disney World was discovered he said, "The kid  
7 has no money so I am helping him out. You want to throw me in  
8 jail for that, go ahead." That was his statement in the paper.

9 I would like to inquire about that statement and not  
10 the background of why he might have paid a kid money or what  
11 the kid's financial status was, for this reason, your Honor.  
12 To go into the issue of the alleged materiality of these  
13 certifications. Because at the end of the day, universities, I  
14 think one can infer from this, that universities understood  
15 that Mr. Gassnola was paying his players, and they didn't  
16 disassociate themselves from him.

17 So that would be the point of that prospective  
18 cross-examination. I think I know what your Honor is going to  
19 tell me, but I felt like I needed to put that on the record to  
20 ask if that cross-examination is forbidden by your Honor's  
21 ruling. I am assuming it is. I don't know.

22 THE COURT: What is the government's view?

23 MR. MARK: This is the exact same line of questions  
24 Mr. Schachter went down, and we think, for all the reasons your  
25 Honor just said, this should be foreclosed.

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1 THE COURT: You're not going there.

2 MR. MOORE: Yes, sir. I just wanted to make sure.

3 THE COURT: Let's get the jury.

4 (Continued on next page)

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(Jury present)

THOMAS JOSEPH GASSNOLA, resumed.

THE COURT: Jurors are all present. The defendants are present. The witness is still under oath.

Mr. Schachter, any further questions?

MR. SCHACHTER: Yes, please, your Honor.

BY MR. SCHACHTER:

Q. Mr. Gassnola, part of your job at Adidas was to support three colleges, Kansas, Indiana University and NC State, is that correct?

A. Partially, yes. I talked to other schools too, but that's mainly right.

Q. And Adidas competes with Nike and Under Armour to win sponsorship arrangements with colleges, is that correct?

A. That's correct.

Q. You believe that Nike was very good at developing relationships with college coaches?

A. Yeah. I agree with that, yes, they were.

Q. And before 2012, it was your view that Adidas was bad at that, is that correct?

A. That was my view, yeah.

Q. Adidas, before 2012, had lost a lot of sponsorships to Nike, is that correct?

A. Nike and Under Armour.

Q. And part of your job with Adidas was to develop

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1 relationships with the colleges, is that correct?

2 A. Jim asked me to further our relationships with the college  
3 coaching staffs, yes.

4 Q. For example, when Nike's sponsorship of University of Miami  
5 was ending, you were asked to try to focus on trying to develop  
6 a relationship with the University of Miami, is that correct?

7 A. I was asked to focus on my relationship for a few years  
8 with Coach Larranaga.

9 Q. And Coach Larranaga is the head basketball coach at the  
10 University of Miami?

11 A. He is.

12 Q. Your efforts were successful, the University of Miami  
13 entered into a sponsorship arrangement with Adidas, is that  
14 correct?

15 A. It did. I don't know if I'm the reason for it.

16 Q. Do you believe that you assisted in achieving that?

17 A. I think I assisted explaining to Coach Larranaga where we  
18 were as a basketball company; I think I succeeded in that.

19 Q. I believe you described in part your job -- the way you  
20 viewed your job was to be an ambassador for the Adidas brand,  
21 is that right?

22 A. I thought that, yes.

23 Q. In your role running the youth basketball team, you got to  
24 know a number of college coaches, is that right?

25 A. I did.



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1 Q. You, for example, were very close with John Calipari, is  
2 that correct?

3 A. I have known him since I was 15.

4 Q. That's the head coach of the University of Kentucky and  
5 University of Massachusetts before that?

6 A. He was at U Mass, then Memphis, and Kentucky.

7 Q. You also had what you would describe as a great  
8 relationship with University of Kansas head coach Bill Self, is  
9 that correct?

10 A. Very good relationship, yes.

11 Q. You had known Bill Self for more than a decade, is that  
12 right?

13 A. Somewhere around there. I would say that's right.

14 Q. In fact, you and your fiance and Mr. Gatto had dinner with  
15 Coach Self and his wife just before his Hall of Fame induction  
16 ceremony, is that correct?

17 A. We did. He paid for it.

18 Q. Coach Self, part of the way you got to know him is because  
19 he had recruited basketball players from your youth basketball  
20 team, is that correct?

21 A. That's correct.

22 Q. And then as you came to take on the role with Adidas of  
23 developing relationships with college coaches, your  
24 relationship with Coach Self improved at that point, is that  
25 correct?

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1 A. I would say that's fair, yeah. Correct.

2 Q. Is it fair to say you feel strongly about your relationship  
3 with Coach Self, is that right?

4 A. Define strongly. Define that.

5 Q. Fair enough. You would say that -- in fact, you are so  
6 close to him that you have told him that you loved him, is that  
7 correct?

8 A. Yeah.

9 Q. In the way that sometimes people do, not like -- I don't  
10 mean to suggest that you have an emotional relationship with  
11 Coach Self, but it's the kind of relationship that you have  
12 with him where you would say, love you, man, for example?

13 A. Yeah. I said that to him.

14 Q. I want to talk a little bit about Adidas's efforts, that  
15 you were just a part of, to cultivate relationships with  
16 college coaches. OK?

17 A. Yeah.

18 Q. Adidas, for example, would host an annual college coaches  
19 conference, is that correct?

20 A. You mean retreat?

21 Q. Thank you. Retreat. Yes. An annual college coaches  
22 retreat?

23 A. Yes.

24 Q. In 2017 the Adidas coaches retreat was at a fancy resort in  
25 Costa Rica, is that correct?

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1 MR. MARK: Objection. Relevance.

2 THE COURT: Sustained.

3 Q. Is it fair to say that, based on your work with Adidas, you  
4 viewed it to be important to Adidas to keep the college coaches  
5 happy, is that correct?

6 MR. MARK: Objection.

7 THE COURT: Sustained.

8 Q. Did you understand that college coaches had a role in  
9 making the decision as to whether a university would enter into  
10 a sponsorship agreement with a particular apparel company?

11 MR. MARK: Objection. Relevance.

12 THE COURT: Overruled.

13 A. Can you rephrase that question?

14 Q. Sure. Did you understand that college coaches played a  
15 role in deciding which apparel company a university may choose  
16 to be its sponsor?

17 A. That depends on the university coaches. I can't answer  
18 that for all of them.

19 Q. But in your experience, do any of the college coaches have  
20 a say in what apparel company a particular university is going  
21 to choose as its sponsor?

22 A. Again, a few of them do, not all of them, in my opinion.

23 Q. Yes or no, did you view part of your role as trying to make  
24 sure that universities didn't switch from Adidas to either one  
25 of their competitors, Nike or Under Armour, did you view that

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1 as part of your job?

2 A. I viewed my job to make sure that the coaching staffs of  
3 the basketball teams were happy with us and the basketball  
4 marketing department. I never talked to anybody at the  
5 university.

6 Q. A coach works with the university?

7 A. I think so, yeah.

8 Q. All right.

9 Now, you testified that you were paid, I believe,  
10 \$150,000 per year by Adidas separate and apart from your  
11 receipt of money to support the New England Playaz basketball  
12 club, is that correct?

13 A. Last two years, that's correct.

14 Q. And then separately Adidas would pay for expenses that were  
15 associated with your team?

16 A. Yes.

17 Q. And then other expenses, as you testified in direct  
18 examination?

19 A. I travel, my travel expenses, yes.

20 Q. And Jim arranged for these expenses to be paid out of the  
21 marketing budget that he had at Adidas, is that correct?

22 A. Yes.

23 Q. Did you understand -- again, just yes or no. If you didn't  
24 have an understanding, please let us know -- did you understand  
25 that Jim had a relatively large budget for marketing at Adidas?

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1 A. I never --

2 MR. MARK: Objection. Relevance.

3 THE COURT: Sustained. Stricken.

4 Q. You were shown some invoices by Mr. Mark on direct  
5 examination. Do you remember that?

6 A. Yeah.

7 Q. I want to just ask you about these invoices that you were  
8 shown.

9 MR. SCHACHTER: Can we put up Government Exhibit 1023  
10 in evidence.

11 May I publish that, your Honor?

12 THE COURT: Yes.

13 Q. This is the invoice for \$50,000, October 15, 2016. And  
14 this is an invoice that was submitted that you received  
15 reimbursement for, is that correct?

16 A. That's correct.

17 Q. And you understood that Jim submitted these invoices to  
18 internal finance people at Adidas? Did you understand that?

19 A. I didn't have an understanding of that. I assumed so. I  
20 didn't ask him the details.

21 Q. Did you understand, though, that the purpose of these  
22 invoices was so that Adidas would then disburse money to you?

23 A. Yeah.

24 Q. You understood that these invoices were to be used  
25 internally at Adidas to determine which budget the money was

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1 going to be paid to you from. Did you have that understanding,  
2 yes or no?

3 THE COURT: Sustained.

4 Q. You sent these invoices to Mr. Gatto, is that correct, at  
5 Adidas?

6 A. Yes.

7 Q. You did not send these invoices to anybody on any coaching  
8 staff at any university, did you?

9 A. You're asking me if I sent an invoice to a college coach?

10 Q. Exactly. That's what I am looking to establish.

11 The answer is no, right, you didn't send this invoice  
12 to any college coach?

13 A. No.

14 Q. You didn't send this invoice to anyone that worked with any  
15 university, did you?

16 A. No. I never sent an invoice to a university employee or a  
17 college coach.

18 Q. These invoices are to be sent to Adidas, correct?

19 A. Yeah.

20 THE COURT: The repetition is beginning to get out of  
21 hand, Mr. Schachter. Let's move.

22 MR. SCHACHTER: Yes, your Honor.

23 You can take that down. Thank you.

24 Q. All right. In your first day of testimony, the government  
25 asked you about the use of the term Black Opp's team at Adidas.

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1 Do you remember that?

2 A. Clearly.

3 Q. Now, this was a term that Chris Rivers used to describe the  
4 grassroots and college marketing team at Adidas, is that  
5 correct?

6 A. When he referred to Black Opp's, he was referring to the  
7 guys in that e-mail, people in that e-mail, the people in that  
8 e-mail.

9 Q. Understood. Did those people all work in the grassroots  
10 college sports marketing team at Adidas?

11 A. Worked in basketball sports marketing, yes.

12 Q. Is it fair to say that that group, the sports marketing  
13 team, viewed itself as being in fierce competition with the  
14 basketball sports marketing people at Nike and at Under Armour,  
15 is that correct?

16 A. I would say you're spot on.

17 Q. The basketball sports marketing team competed with Nike and  
18 Under Armour not just over college sponsorships, but also over  
19 the ability to sponsor successful youth basketball teams, is  
20 that correct?

21 A. Yes.

22 MR. SCHACHTER: Can we put up Government Exhibit 1141.  
23 Your Honor, may I publish that?

24 THE COURT: Yes.

25 Q. This is an e-mail that you received, that you were shown by

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1 the government, on February 17, 2015.

2 MR. SCHACHTER: Can we just blow up the very top?

3 Q. You said that all of these people were a member of what you  
4 said would refer to themselves as the Black Opp's team at  
5 Adidas, is that correct?

6 A. Rivers referred to these people as the Black Opp's. I  
7 didn't refer to them as the Black Opp's team.

8 Q. It also says "Adidas Soul Patrol, a/k/a Black Opp's," is  
9 that right?

10 A. Yes.

11 Q. Soul Patrol, is that a pun?

12 A. Is it a what?

13 Q. A pun. It's a sneaker company. Soul, S-O-U-L, or S-O-L-E.

14 A. No.

15 Q. OK. I may be the only person that saw that.

16 These names were used by Mr. Rivers interchangeably,  
17 he would call this group the Black Opp's team or he would call  
18 them the Soul Patrol, is that correct?

19 A. He called them the Black Opp's team. There were certain  
20 people that I called the Soul Patrol.

21 Q. Now this group, this e-mail, these members, this shows that  
22 there's nine members of the Black Opp's Soul Patrol team, is  
23 that correct, according to Mr. Rivers?

24 A. Yes.

25 Q. But there's other people that you considered part of the



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1 Black Opp's Soul Patrol team beyond just these nine, is that  
2 correct? In other words, there was a larger team than this?

3 A. You have got to repeat that because I am getting lost here.

4 Q. Let me ask a more direct question.

5 You, I believe, also would have thought of as part of  
6 the Black Opp's Soul Patrol sports marketing team, you would  
7 also include in that a man named Etop Udo-Ema, is that correct?

8 A. I don't know if I personally would have included him in  
9 that at this time back in 2015. I can't recall that, but I  
10 don't think I would have referred to Etop as part of this.

11 Q. Thank you.

12 At any point in time did you consider Etop to be part  
13 of the Black Opp's Soul Patrol sports marketing team?

14 A. I don't recall.

15 Q. I am going to show you what has been marked -- for the  
16 witness only -- 3503-12, at 2.

17 Sir, if you could just look at that on the screen and  
18 just review this to yourself, and then just let us know when  
19 you're done. The first sentence that's blown up, if you could  
20 just read that to yourself and let us know when you're done.

21 Are you all done?

22 Does that refresh your recollection that you  
23 considered Mr. Etop to be a member of the Black Opp's team?

24 A. It refreshes my memory, yes.

25 Q. So you did consider him to be a member of the Black Opp's

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1 Soul Patrol team?

2 A. A member, yeah.

3 Q. In addition to that, there was a woman named Tracy Moore,  
4 you considered her to be a member of the Black Opp's Soul  
5 Patrol sports marketing team at Adidas?

6 A. Can you refresh my memory who Tracy is?

7 Q. I can only ask the questions. If you don't remember that's  
8 OK.

9 A. I don't remember.

10 Q. Do you recall being interviewed by the FBI and members of  
11 the U.S. Attorney's Office on January 2, 2018?

12 A. I don't.

13 Q. You don't remember that?

14 I am just going to show you -- if I may, your Honor --  
15 Exhibit 3503-12, just the first page.

16 Just look at this document, sir.

17 MR. SCHACHTER: We don't need to blow it up yet.

18 Q. I will direct your attention to the first paragraph, and  
19 then also the date at the bottom. Just let us know when you're  
20 done.

21 The only question is, does that refresh your  
22 recollection that you met with the government on January 2,  
23 2018.

24 I see. I apologize. Does this refresh -- let me ask  
25 a different question.

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1 Do you remember meeting with the government on  
2 December 28, 2017?

3 A. Is this from December 28, 2017?

4 Q. Without talking about the document, if you can just look at  
5 that and if you see, there is a date on the very bottom, if you  
6 can just look at that and see if that refreshes your  
7 recollection that you met with the government on December 28,  
8 2017.

9 A. I am confused. This document says January 9.

10 THE COURT: Don't talk about the contents of the  
11 document, Mr. Gassnola, please.

12 Q. Putting aside the date, why don't we try this.

13 Do you recall telling the members of the FBI that  
14 Tracy -- withdrawn.

15 How about somebody named --

16 MR. SCHACHTER: You can take it down, Mr. McLeod.

17 Q. Do you recall somebody named Tonie Hanson being a member of  
18 the team?

19 A. I remember Tonie Hanson being in e-mails, yes.

20 Q. You viewed her as being part of the Black Opp's Soul Patrol  
21 team?

22 A. I viewed her as an assistant to Jimmy and Chris.

23 Q. OK. Sir, isn't it true that when you met with the  
24 government on December 28, 2017, you identified Tonie Hanson as  
25 being a member of the Black Opp's team?

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1 MR. MARK: Objection. Relevance.

2 MR. SCHACHTER: I will withdraw the question. I will  
3 put a different question.

4 Q. In other words, sir, the number of members of the Black  
5 Opp's Soul Patrol team, that was a larger number than just the  
6 people that were on the e-mail that we saw a moment ago, is  
7 that correct?

8 A. OK. That's correct.

9 Q. OK. Thank you.

10 Now, Mr. Mark asked you what a Black Opp was, and you  
11 said that it's an operation that's dark and underground and you  
12 didn't want anybody to know about it. Do you recall that?

13 A. I do.

14 Q. Would you agree with me that if the Black Opp's Soul Patrol  
15 team was responsible for dark, underground and secret missions,  
16 that perhaps writing an e-mail among 15 different employees at  
17 a global corporation would not be the best way to keep it dark  
18 and secret?

19 MR. MARK: Objection. Argumentative.

20 THE COURT: Sustained.

21 Q. Now, you said that part of what the Black Opp's Soul Patrol  
22 team did was arrange for payments to families of players, is  
23 that right?

24 A. Do that again.

25 Q. Sure. I think you described in your direct testimony that

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1 part of what this team did was arrange for payments to families  
2 of players, is that correct?

3 A. I think my statement was Black Opp's meant payments to  
4 families of players, yes.

5 Q. But this team that Mr. Rivers would call the Black Opp's  
6 Soul Patrol team did many more things other than providing  
7 those payments, is that correct?

8 A. That's correct.

9 Q. They would track the top 50 high school basketball players,  
10 is that right?

11 A. Yes.

12 Q. They would provide weekly updates on what Nike and Under  
13 Armour were doing?

14 A. That's correct.

15 Q. Members of the Black Opp's Soul Patrol team would work to  
16 recruit new college programs for Adidas, is that correct?

17 A. No, it's not correct.

18 Q. OK. Members of the Black Opp's Soul Patrol team were  
19 assigned to support particular colleges, is that correct?

20 A. That's correct.

21 Q. And members of the Black Opp's Soul Patrol team worked to  
22 develop relationships with NBA players?

23 A. Some did, yes. I did not.

24 Q. Were they also responsible for identifying counselors for  
25 Adidas Nations?

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1 A. Yes, some were, yes.

2 Q. What does that mean? When the Black Opp's Soul Patrol team  
3 would identify counselors for Adidas Nations, what does that  
4 mean?

5 A. At Adidas Nations we wanted the best college counselors we  
6 could get. It was a competitive market because some of those  
7 people we wanted, those kids we wanted, were affiliated with  
8 other brands. So we worked together in cohesion to identify  
9 the players we could get to Adidas Nations, and we all worked  
10 together to do that.

11 Q. Now, Mr. Rivers would use the term Black Opp's Soul Patrol  
12 team, in fact, in communications to all of the Adidas AAU  
13 directors, is that correct? He would send out e-mails to the  
14 entire group of AAU directors?

15 A. I don't recall that.

16 Q. I am going to show you -- just for the witness -- Defense  
17 Exhibit 1065.

18 MR. SCHACHTER: May I have just a moment, your Honor?

19 THE COURT: Yes.

20 MR. SCHACHTER: This is just, for the moment, to  
21 refresh. It's a thick binder.

22 Q. I am only showing Defense Exhibit 1065 just for you to  
23 review.

24 Does this in any way refresh your recollection that  
25 there were communications that went out to all of the AAU

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1 directors that referenced the terms Black Opp's or Soul Patrol?  
2 Does it refresh your recollection, without describing the  
3 document?

4 A. It doesn't refresh my recollection.

5 Q. Very good.

6 MR. SCHACHTER: You can take it down, Mr. McLeod.

7 Q. Now, Chris McGuire was an Adidas employee that was senior  
8 to both Mr. Gatto and to the other gentleman you mentioned,  
9 Chris Rivers, is that correct?

10 THE COURT: Do you mean that he had been there longer  
11 or do you mean something else?

12 Q. He had a senior role. He had a higher title and  
13 compensation level. He was a more senior employee at Adidas  
14 than Mr. Gatto or Mr. Rivers. Did you know that?

15 A. Yes.

16 Q. He was not actually even involved in grassroots marketing,  
17 was he?

18 A. No.

19 Q. Part of his job was to negotiate college sponsorships, is  
20 that correct?

21 A. It was one of his many jobs, yes.

22 Q. He was sometimes, this gentleman Chris McGuire was  
23 sometimes included in these Black Opp's Soul Patrol team  
24 communications, is that correct?

25 A. I don't recall that.

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1 Q. All right. I am going to show you Defense Exhibit 101, if  
2 you can just review that to yourself for a moment.

3 Sir, do you recognize this to be a group text message  
4 that you received on November 13, 2015 from Mr. Rivers, but to  
5 a group that included a man named Hedio Smith, Dan Cutler, Cory  
6 Butler, Anthony Coleman, and also Chris McGuire?

7 MR. MARK: Objection.

8 THE COURT: Don't do that. Don't do that.

9 MR. SCHACHTER: Yes, your Honor.

10 Q. Do you recognize this document?

11 A. Yes.

12 Q. Is Mr. McGuire included on this communication?

13 MR. MARK: Objection.

14 THE COURT: Sustained.

15 MR. SCHACHTER: Your Honor, we will offer Defense  
16 Exhibit 101.

17 MR. MARK: Objection.

18 THE COURT: Sustained.

19 Q. All right. You were shown Government Exhibit 1096 in  
20 evidence.

21 MR. SCHACHTER: Can we put that up on the screen,  
22 please.

23 Q. This is an e-mail that you sent to Mr. Rivers on March 2,  
24 2015, is that correct?

25 A. Yes.



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1 Q. Mr. Mark focused your attention on a couple of provisions.  
2 I just want to focus you on a couple of others.

3 Can you please just take a look at the first entry,  
4 October 10, 2014.

5 A. Yeah.

6 MR. SCHACHTER: Your Honor, if I could just take a  
7 moment as I publish that for the jury.

8 THE COURT: Yes.

9 Q. Then, sir, I would also just like to focus you on the  
10 portion in the middle of the page, October 25.

11 Tom Crean, who is he?

12 A. The head coach of the University of Georgia.

13 Q. Although it says, "I attended Midnight Madness at IU"?

14 Is that Indiana University?

15 A. That is.

16 Q. Was he at that point in 2015 involved in coaching at  
17 Indiana?

18 A. He was the head coach at Indiana.

19 Q. Did you in fact on October 25 talk with Coach Crean and his  
20 staff about how the coaching staff of Indiana would like Adidas  
21 to help them as well?

22 A. I wrote that here, yes.

23 Q. I would like to focus you just a couple of lines down.

24 Can you focus on the November 17 section?

25 Did you write that you and Mr. Gatto attended an

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1 Indiana University game against Texas Southern, and that you  
2 spent time with the coaching staff at Indiana University?

3 A. I wrote that, yes.

4 Q. In that meeting, do you recall Mr. Gatto assuring Coach  
5 Crean that we are here to help, and you asked him to call any  
6 time if he needed anything, and in response, either physically  
7 or metaphysically, you received hugs?

8 A. Tom hugged me.

9 Q. Physically.

10 Now, you in direct examination talked about funds that  
11 you provided to the family of DeAndre Ayton, is that correct?

12 A. Yeah.

13 Q. You said, I believe, that you provided \$15,000, is that  
14 correct?

15 A. \$15,000 is correct.

16 Q. And what, if anything, in addition to the \$15,000 did you  
17 provide to Mr. Ayton and his family?

18 A. I don't recall.

19 Q. Did you find them permanent housing and a job for  
20 Mr. Ayton's mother?

21 A. I tried to help in that regard. I sure did.

22 Q. Were you successful in finding her a job and permanent  
23 housing?

24 A. I was not.

25 Q. Do you recall that around that time the Aytons had just

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1 moved from the Bahamas so that Mr. Ayton could train in the  
2 hopes of playing basketball?

3 MR. MARK: Objection. Relevance.

4 THE COURT: Sustained.

5 Q. Sir, that payment and any additional support would fall  
6 within the definition of a Black Opp, as you described it the  
7 first day of your testimony?

8 A. Yes.

9 Q. Now, in answering questions from Mr. Mark, you said that  
10 the Bowen family was looking for money. Do you recall using  
11 those words?

12 A. Yes.

13 Q. I believe that you also said, either in words or substance,  
14 that the family of Dennis Smith was looking for money. Do you  
15 remember that?

16 A. I told you what Andy Miller told me and then I told you  
17 what Orlando Early told me.

18 Q. This was not the first time that you ever heard about  
19 families of talented basketball players looking for money, is  
20 that correct?

21 MR. MARK: Objection. Relevance.

22 THE COURT: Sustained.

23 Q. Are you familiar with a basketball player named Diamond  
24 Stone?

25 A. I am.

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1 Q. He plays in the NBA for the New Orleans Pelicans, is that  
2 correct?

3 A. I don't know where he plays in the NBA.

4 Q. His high school basketball coach asked you to provide  
5 \$150,000 for Mr. Stone's family in order to recruit him to an  
6 Adidas school, is that correct?

7 MR. MARK: Objection. Relevance.

8 THE COURT: We will take a break. 15 minutes, members  
9 of the jury.

10 (Jury exits courtroom)

11 (Continued on next page)

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1           THE COURT: Mr. Gassnola, please step out while we  
2 have this conversation.

3           Why is this relevant, Mr. Schachter?

4           MR. SCHACHTER: Your Honor, obviously, this is, in our  
5 view, a case that is all about whether or not this is an intent  
6 to defraud. The issue is, what is on Mr. Gatto's mind as he is  
7 arranging for the payments that Mr. Gassnola is discussing?

8           It is our position that what is on his mind is he is  
9 doing his job. He is doing the same job that people at other  
10 shoe companies do. Part of his job that he is tasked with is  
11 to try to, as Mr. Gassnola described, try to secure talented  
12 basketball players to play at Adidas-sponsored universities.

13          THE COURT: I think maybe you ought to try something  
14 else, because the annals of this courthouse are filled with  
15 people who did their jobs by fixing prices, insider trading,  
16 securities fraud, and god knows what else. So the fact that he  
17 was doing his job gets you nowhere. So maybe there is a  
18 different explanation for this.

19          MR. SCHACHTER: Your Honor may, of course, be  
20 absolutely right that my argument will be unsuccessful. But  
21 the issue is, as he is involved in these communications and  
22 arranging for these payments, what is he thinking about? Is he  
23 thinking, I am acting with an object to defraud universities,  
24 or is it something else? Is that not on his mind at all?

25          It is our position that that is not what is on his

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1 mind. On his mind, whether it's right, wrong, or otherwise,  
2 and maybe your Honor is absolutely right --

3 THE COURT: You understand there is no maybe about it.

4 MR. SCHACHTER: Nonetheless, it is our intention to  
5 argue to the jury that that is what is on his mind.

6 THE COURT: The guys in the five families are doing  
7 their jobs too.

8 MR. SCHACHTER: Understood.

9 THE COURT: I am drawing no comparison with respect to  
10 your client. I am just making a point about your argument.

11 MR. SCHACHTER: Here there are only three families, I  
12 suppose.

13 THE COURT: I don't think you're admitting there are  
14 three families.

15 MR. SCHACHTER: It is not the five families. And this  
16 conduct, we think, while certainly --

17 THE COURT: So explain to me how it is that whatever  
18 went on with this guy Diamond Stone, if anything, sheds any  
19 material amount of light on what your client was thinking when,  
20 for example, he approved, if he did, \$100,000 to Bowen Senior?

21 MR. SCHACHTER: What he is thinking is an example like  
22 this, where Diamond Stone's high school basketball coach says  
23 the family wants \$150,000, Adidas doesn't pay, and so he  
24 doesn't go to an Adidas school, he goes to the University of  
25 Maryland which is sponsored by Under Armour. And there are a

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1 number of other examples like that.

2 So what Mr. Gatto is thinking, we may argue to the  
3 jury, is that he is thinking that part of his job of securing  
4 talented high school recruits to go to certain colleges depends  
5 on whether or not they are willing to make payments out of the  
6 marketing budget.

7 Now, your Honor may be right, my argument to the jury  
8 may be unsuccessful, but this is important evidence, we  
9 believe, and maybe the jury will disagree, and I am sure the  
10 government would disagree, and maybe your Honor will disagree,  
11 but we believe it is relevant evidence to establishing what is  
12 in Mr. Gatto's mind, what is his intent as he is arranging for  
13 these payments, which we are not disputing were made. The  
14 question is the why and not the whether. That's why we believe  
15 it's 401 relevant.

16 Also, in light of the other evidence in the case, we  
17 don't believe it is prejudicial. And there aren't so many  
18 examples so we don't believe the evidence is in any way  
19 cumulative, but we do intend to explore with Mr. Gassnola just  
20 a couple of similar examples like that.

21 THE COURT: How many?

22 MR. SCHACHTER: Maybe two. Maybe one, actually. One,  
23 your Honor. Maybe two. Two. Two. That's my final answer.

24 THE COURT: Mr. Mark.

25 MR. MARK: I think exactly what Mr. Schachter is

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1 trying to do by eliciting this testimony is, if you had an  
2 insider trading trial, where you had one trader say what I was  
3 doing was OK because the other trader at the other company was  
4 also breaking the rule.

5 THE COURT: It's the everybody's doing it defense.

6 MR. MARK: Everybody is doing it. And that is what he  
7 is trying to go down with this road. I don't think it's  
8 relevant.

9 MR. SCHACHTER: May I respond to that?

10 THE COURT: Yes.

11 MR. SCHACHTER: It is close, but very different. The  
12 reason why it is -- we are not, and certainly we would not  
13 argue that, members of the jury, it's OK because everybody does  
14 it. That's not the point of this evidence. The point of the  
15 evidence is, because it is ubiquitous, it is why Mr. Gatto is  
16 not thinking in his head that his conduct is defrauding a  
17 university. Because it happened so frequently, it is why one  
18 can conclude that the universities want it.

19 Now, that view may be wrong, but it is as he is doing  
20 his job. As somebody in basketball sports marketing is doing  
21 his job, when they become aware that there are many  
22 circumstances where payments are made to families that then go  
23 on to particular universities, one can conclude, or the jury  
24 may infer from that evidence, that he may not have been  
25 thinking that he was cheating a university; rather, he was



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1 thinking that he was doing what the universities wanted, or he  
2 was helping the universities accomplish their goal. That is  
3 the point of this evidence. Not that it's OK because everybody  
4 is doing it. It is close, but the argument is it is relevant  
5 to his intent to defraud.

6 The government may disagree, and your Honor may  
7 disagree, it is also the truth. It is exactly why Mr. Gatto is  
8 not thinking to himself, as he is doing his job, I am  
9 defrauding a university. It's just not what is crossing his  
10 mind. That's, I believe, your Honor, the absolute truth. I  
11 think it never crosses his mind that he was going to be  
12 cheating a university. That's not why he is making these  
13 payments. And part of that is because he has lived in the  
14 basketball world, as the government says, and this is what he  
15 is aware of, where I can explore this admissible evidence of  
16 that.

17 MR. MARK: Well, Mr. Schachter said this is close to  
18 the everybody-is-doing-it defense. I would say it's as close  
19 as one plus one equals two. This is the everybody-is-doing-it  
20 defense. I don't think we can thought of cheat it in this way.

21 THE COURT: I have a memory, but I haven't been able  
22 to find it quickly. The phrase plausible deniability came up  
23 in the course of this trial, didn't it?

24 MR. MARK: Yes, your Honor.

25 THE COURT: Can somebody remind who used it and when?

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1           MR. MOORE: There is wiretap call where Mr. Code talks  
2 about Rick Pitino and plausible deniability. That is where it  
3 came up, your Honor. In a discussion with Mr. Dawkins. And I  
4 believe Mr. Sood was on that call. The government will correct  
5 me if I am wrong.

6           MR. MARK: That's correct.

7           THE COURT: Tell me the exhibit, please.

8           MR. MARK: Government Exhibit 75A. It was the June  
9 20th recording, the video recording.

10          THE COURT: I will give you an answer when we come  
11 back.

12          (Recess)

13          (Continued on next page)

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Gassnola - cross

1 (Jury not present)

2 THE COURT: Be seated, folks. That means everyone.

3 Mr. Moore, you want to be heard?

4 MR. MOORE: Yes, sir, your Honor, very briefly, and  
5 your Honor is quicker in all things than I am and I should have  
6 said this earlier.

7 But my point would be, your Honor, that in listening  
8 to Mr. Mark compare this to insider trading or other types of  
9 cases, I agree with your Honor that the annals of the  
10 courthouse are replete with a lot of cases, the annals of the  
11 courthouse are replete with insider trading cases. The annals  
12 of the courthouse not replete, however, with cases like this  
13 particular case where employees or affiliates of a shoe company  
14 are charged with defrauding the schools, schools that their  
15 companies sponsor. And so I think that the analogy of  
16 comparing this to an insider trading case falls somewhat flat  
17 here, because there is no clear benchmark, no clear indication  
18 to any of these folks that the conduct that is at issue here is  
19 illegal, unlike you would see in --

20 THE COURT: My point was different.

21 MR. MOORE: I was responding to Mr. Mark's point, not  
22 your Honor's, about the insider trading and the insider trading  
23 analysis.

24 THE COURT: OK. Now, the \$150,000 payment that  
25 Mr. Schachter inquired about was to a high school -- was at the

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Gassnola - cross

1 request -- involved the request by a high school coach. I  
2 don't see how that sheds any light at all on whether the  
3 colleges that the defendants are accused of having defrauded,  
4 or conspired to defraud, were reasonably thought by anybody to  
5 have approved these kinds of payments.

6 So, the objection with respect to the high school  
7 coach asking for money for Mr. Stone's family is sustained. If  
8 you have another incident you propose to inquire about, I will  
9 rule when you ask the question.

10 Let's get the jury.

11 (Continued on next page)

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Gassnola - cross

1 (Jury present)

2 THE CLERK: Please be seated, everyone.

3 THE COURT: OK. The jurors are present. The  
4 defendants are present.

5 The objection to the last question, ladies and  
6 gentlemen, was sustained.

7 Next question.

8 MR. SCHACHTER: Thank you, your Honor.

9 BY MR. SCHACHTER:

10 Q. Mr. Gassnola, when you made these payments to the families  
11 that you described, you didn't take any kickbacks from those  
12 families, did you?

13 A. I never took a kickback, no.

14 Q. You weren't lining your own pockets as you paid these  
15 families, were you?

16 A. No, I was not.

17 Q. You were doing your job, as you saw it, at Adidas, is that  
18 correct?

19 MR. MARK: Objection.

20 THE COURT: Sustained.

21 Q. You testified earlier about this player DeAndre Ayton, is  
22 that right?

23 A. Yep.

24 Q. And you tried to recruit DeAndre Ayton for Coach Self to go  
25 to the University of Kansas, is that correct?

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Gassnola - cross

1 A. At the time I met DeAndre, at that time it was about  
2 grassroots, putting him on one of our grassroots team.

3 Q. Did Coach Self at Kansas ever tell you that he really  
4 wanted to have DeAndre Ayton on the team at the University of  
5 Kansas?

6 A. He was the number one player in the country. Everybody  
7 wanted to recruit him.

8 Q. Did you feel that you let Coach Self down when DeAndre  
9 Ayton did not go to the University of Kansas?

10 A. I did.

11 Q. You believed that college coaches wanted shoe companies to  
12 help get players to their schools, is that correct?

13 A. Rephrase that.

14 Q. Sure. Did you believe that college coaches wanted shoe  
15 companies to help recruit players to their schools?

16 A. The colleges -- the colleges -- the basketball coaches,  
17 yes, one of the assistants, yes.

18 Q. And some coaches, you believe, knew that the shoe companies  
19 provided money to families to help colleges recruit, isn't that  
20 correct?

21 MR. MARK: Objection.

22 THE COURT: Sustained.

23 BY MR. SCHACHTER:

24 Q. Fair to say that based on your interactions with college  
25 coaches in your job, that you felt that some coaches simply did

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Gassnola - cross

1 not want to know that the shoe companies provided money to  
2 families to help colleges recruit?

3 MR. MARK: The same objection.

4 THE COURT: Sustained.

5 Q. You talked a lot about your interactions with Mr. Gatto  
6 when Mr. Mark asked you questions. Do you remember that?

7 And from those conversations, did you believe that you  
8 and Jim shared an understanding that you both would do whatever  
9 it took to help Adidas-sponsored schools, including helping  
10 schools in ways that violated the NCAA rules? Was that your  
11 belief?

12 A. Can you do that again? I'm sorry. Can you do that again?

13 Q. Sure. Do you believe, based on your interactions with  
14 Mr. Gatto, that you both shared an understanding that you both  
15 would do whatever it takes to help Adidas-sponsored schools,  
16 including in ways that violated the NCAA rules?

17 MR. MARK: I object to "whatever it takes."

18 THE COURT: Sustained at least as to that.

19 Q. You worked in basketball for almost 20 years, is that  
20 correct, Mr. Gassnola?

21 A. Yep.

22 Q. And from that experience, you believed that the culture is  
23 that everyone is breaking the NCAA rules, is that correct?

24 MR. MARK: Objection.

25 THE COURT: Sustained.

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Gassnola - cross

1 Q. You testified, sir, about your awareness of payments made  
2 in connection with the recruitment of Tugs Bowen to University  
3 of Louisville, is that correct?

4 A. Yes, I knew about it, yes.

5 Q. And the University of Louisville you would call a flagship  
6 school for Adidas, is that correct?

7 A. I would, yeah.

8 Q. And you believed that part of your job was keeping the  
9 coaches at the University of Louisville happy, is that correct?

10 MR. MARK: Objection.

11 THE COURT: Sustained.

12 Q. Do you recall that the University of Louisville wanted to  
13 recruit a basketball player named Romeo Langford?

14 MR. MARK: Objection as to "the University of  
15 Louisville."

16 THE COURT: I'm sorry?

17 MR. MARK: Objection to the form of the question.

18 THE COURT: I don't see a problem with the form. Go  
19 ahead.

20 Q. Sir, do you recall that the University of Louisville wanted  
21 to recruit a basketball player named Romeo Langford.

22 A. They didn't want to, they were recruiting him.

23 Q. And you spoke to the University of Louisville's associate  
24 head coach, Kenny Johnson, about that recruiting?

25 A. I did, yeah.



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Gassnola - cross

1 Q. And you wanted to check in with Coach Johnson to make sure  
2 that the brand was doing its part in helping Louisville recruit  
3 Romeo Langford, is that correct?

4 A. That's correct.

5 Q. The athletic director of the University of Louisville was a  
6 man named Tom George, is that correct?

7 A. Yes.

8 Q. And you would occasionally interact with both Mr. George  
9 and Coach Pitino, is that correct?

10 A. I never met Tom George a day in my life.

11 Q. You meant Coach Pitino, is that correct?

12 A. Yep.

13 Q. And was it your impression, from your interactions with  
14 him, that Coach Pitino was, in your words, steamrolling Adidas  
15 to get what they wanted?

16 MR. MARK: Objection. Relevance.

17 THE COURT: Sustained.

18 Q. You said that after -- Mr. Mark asked you whether after the  
19 charges in this case were announced, you texted Coach Pitino  
20 about the case, is that correct?

21 A. I texted Coach Pitino when I was on a plane coming home  
22 from Atlanta, Georgia.

23 Q. And you texted Coach Pitino because you believed that Coach  
24 Pitino was involved in and aware of the Bowen deal, is that  
25 correct?

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Gassnola - cross

1 A. I texted Coach Pitino because my mind was going crazy and I  
2 was looking for information.

3 Q. Sir, do you recall meeting with the FBI and federal  
4 prosecutors on December 5, 2007?

5 THE COURT: Probably not.

6 MR. SCHACHTER: May I show the witness --

7 THE COURT: You are at least a decade off.

8 MR. SCHACHTER: I apologize.

9 Q. Do you recall meeting with the FBI and federal prosecutors  
10 on December 5, 2017?

11 A. Yes.

12 Q. And, sir, did you say -- one moment -- that -- and did you  
13 tell the FBI and members of the U.S. Attorney's Office that you  
14 believed that Coach Pitino was involved in and aware of the  
15 Bowen Junior deal and that is what motivated you to text  
16 message Coach Pitino on September 26, 2017? Did you tell that  
17 to the FBI and members of the prosecution team?

18 A. I don't remember saying that. I don't remember.

19 Q. Sir, I'm -- your Honor, may I show the witness 3503-10,  
20 page 14?

21 THE COURT: Yes.

22 Q. Sir, if you can just read that to yourself and let us know  
23 when you are done.

24 MR. MARK: Your Honor, may we approach before the --

25 THE COURT: Yes.

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Gassnola - cross

1 (At the sidebar)

2 THE COURT: What is it?

3 MR. MARK: What I think he is trying to elicit is pure  
4 speculation out of Mr. Gassnola right now. Mr. Schachter can  
5 draw whatever inferences he potentially wants in closing, but  
6 Mr. Gassnola has talked about what he knew, what he discussed  
7 at the time, and what inferences to be drawn that might be in a  
8 302 or might be drawn --

9 MR. DISKANT: Your Honor, if I may? The very next  
10 sentence.

11 THE COURT: One lawyer on a side.

12 MR. DISKANT: Point him to the next sentence. Just  
13 point him to the next sentence in the 302 -- in the 302.

14 THE COURT: I read it.

15 MR. SCHACHTER: Your Honor, this is a prior  
16 inconsistent statement of the witness.

17 THE COURT: No, it is not.

18 MR. SCHACHTER: I believe that I asked him the exact  
19 question that was stated, but --

20 THE COURT: He said he didn't remember. He didn't  
21 recall it.

22 MR. SCHACHTER: He didn't recall making the statement  
23 to the FBI, and now I am refreshing his recollection --

24 THE COURT: What difference does it make if he made it  
25 to the FBI?

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Gassnola - cross

1 MR. SCHACHTER: I will withdraw it. Your Honor, we  
2 believe it is material impeachment, but we can withdraw it and  
3 move on.

4 MR. MOORE: Your Honor, he intends to withdraw it. I  
5 would like to inquire about it and point to the difference I  
6 think it makes.

7 THE COURT: Suppose he said the moon is made of green  
8 cheese, does that come in? Suppose he says he believes the  
9 moon was made of green cheese.

10 MR. MOORE: I think that, unfortunately, your Honor,  
11 what he said --

12 THE COURT: He sits and speculates to the FBI that he  
13 thinks Pitino may have known, or knew, right? And in the next  
14 sentence he said but, of course, he never talked to them about  
15 it. So, he's speculating to the FBI, and now you want to offer  
16 that for the truth?

17 MR. SCHACHTER: Well, your Honor, the basis of I think  
18 his statement was -- and I, of course, don't know, but I  
19 believe his statement is based on his interactions with Coach  
20 Pitino and his knowledge and awareness of the deal, not with  
21 Coach Pitino in this particular circumstance but on his other  
22 interactions with Coach Pitino.

23 THE COURT: This is not appropriate. It is sustained.

24 (Continued on next page)  
25

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Gassnola - cross

1 (In open court)

2 BY MR. SCHACHTER:

3 Q. Mr. Gassnola, I want to speak with you briefly about a  
4 player named Nassir Little.

5 You spoke with a man named Brad Augustine about Nassir  
6 Little, is that correct?

7 A. I did.

8 Q. And Nassir Little was a player -- do you know that he  
9 played for Brad Augustine's AAU team, a team called One Family?

10 A. I knew that.

11 Q. And he -- Mr. Augustine told you, I believe you testified  
12 on direct, that he was choosing between the University of Miami  
13 and the University of Arizona; do you recall that testimony?

14 A. That's what Brad told me, yes.

15 Q. And you were pushing the University of Miami, is that  
16 correct?

17 A. I was hoping that the young man was going to go to the  
18 University of Miami.

19 Q. And you understood that -- well, Mr. Augustine talked to  
20 you about support that Adidas was providing for his AAU team,  
21 One Family, is that correct?

22 A. We talked about it, yep.

23 Q. He told you that he had what's called a merchandise deal,  
24 is that right?

25 MR. MARK: Objection. Hearsay and relevance.

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Gassnola - cross

1 THE COURT: Sustained.

2 Q. Do you recall, sir, that Adidas did not provide financial  
3 support for his youth basketball team, One Family?

4 A. He told me that, yep.

5 Q. And he was speaking to you because he wanted -- your  
6 understanding was that he wanted your help in obtaining  
7 financial support for his team in addition to merchandise?

8 MR. MARK: This is the same line of questioning.

9 THE COURT: It also calls for speculation about the  
10 motives of Mr. Augustine in talking to him, which unless he is  
11 a mind reader we don't have any way of knowing.

12 MR. SCHACHTER: All right.

13 BY MR. SCHACHTER:

14 Q. Sir, you told Mr. Augustine that if Nassir Little went to  
15 Miami, that you would call Miami's head coach, is that correct?

16 A. I told Brad that if Nassir Little had gone to Miami, that I  
17 would have Coach Larranaga make a phone call and I will call  
18 him. Yes, I remember that.

19 Q. You would speak to Coach Larranaga about making a call to  
20 people at Adidas, is that correct?

21 A. Yes.

22 Q. About getting support for his team?

23 A. About getting support for his team, that's correct.

24 THE COURT: For Mr. Augustine's team, is that what you  
25 meant?

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Gassnola - cross

1 THE WITNESS: Yes, your Honor.

2 THE COURT: Thank you.

3 BY MR. SCHACHTER:

4 Q. And you also contacted two of Miami's assistant basketball  
5 coaches, is that correct?

6 A. Sometime around there, I talked to -- I talked to Chris  
7 Caputo. I forgot the other guy's name.

8 Q. Is that Jamal Brunt? Did you speak to an assistant coach  
9 at Miami named Jamal Brunt also?

10 A. That sounds right.

11 Q. And did you tell them that if Nassir Little went to Miami  
12 to play basketball, that it would be important for Coach  
13 Larranaga to call Adidas about providing funding for Brad  
14 Augustine's youth basketball team?

15 A. I don't recall my conversation with them. I might have had  
16 a conversation with Caputo himself about that particular --  
17 about that situation, yes.

18 Q. Thank you. All right. Let's now talk about Dennis Smith.

19 You testified in your direct examination about a  
20 \$40,000 payment that you made that was I believe intended, you  
21 said, for Dennis Smith's father, is that correct?

22 A. I said his family.

23 Q. Family. OK. Thank you.

24 I just want to talk a little bit about who Dennis  
25 Smith was.

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Gassnola - cross

1           In 2015 -- well, do you recall what position Dennis  
2 Smith played?

3 A. I do. A point guard.

4 Q. And he grew up in North Carolina, is that correct?

5 A. Yep.

6 Q. And one of the colleges that you were responsible for  
7 providing support to was NC State, is that correct?

8 A. Yes.

9 Q. You believed that it was a priority for Adidas to have  
10 Dennis Smith play at NC State, is that correct?

11 A. I believed that, yeah.

12 Q. And did you also understand that recruiting Dennis Smith  
13 was important to NC State?

14           THE COURT: Sustained.

15           MR. MARK: Objection.

16 Q. Now, you testified, I believe, sir, that you made this  
17 \$40,000 payment in November of 2015, is that correct?

18 A. Yep.

19 Q. Now, Dennis Smith had committed publicly to NC State on  
20 September 10th of 2015, is that correct?

21 A. I'm not for sure of the date but I know that he had already  
22 verbally committed.

23 Q. In addition to verbally committing, do you recall if it was  
24 covered by any news outlets?

25 A. I don't follow social media, so I don't know.



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Gassnola - cross

1 Q. Well, do you follow ESPN and other sports media outlets?

2 A. Yes.

3 Q. Do you have a recollection of whether that Dennis Smith  
4 committing to NC State had already actually been publicly  
5 announced in the media?

6 A. Yes.

7 Q. So this payment to Mr. Smith in November of 2015 was made  
8 after he had already committed to NC State, is that correct?

9 THE COURT: Asked and answered.

10 Could we have a new question, please?

11 MR. SCHACHTER: Yes, your Honor.

12 Q. Now, you said that this payment came from Adidas, is that  
13 correct?

14 A. I was reimbursed by Adidas for it, yes.

15 Q. Sir, is it true that two weeks before the payment that you  
16 made on November the 2nd, you had received a wire transfer from  
17 a man named Martin Fox of the exact same amount, \$40,000?

18 A. That's true.

19 Q. And is it -- and I would like to -- may I show the witness,  
20 your Honor, an excerpt from Government Exhibit 306D? It is  
21 labeled in the binders as 306D, defense excerpt A.

22 THE COURT: I'm sorry.

23 MR. SCHACHTER: May I show the witness -- I'm sorry.  
24 May I show the witness Government Exhibit 306D, which is a  
25 lengthy document. They are bank records, and I just want to

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Gassnola - cross

1 show him one page from them, which has been identified as  
2 defense excerpt A.

3 THE COURT: That is the part I am not getting.

4 MR. SCHACHTER: There is a large government exhibit --

5 THE COURT: I understand. Big government exhibit and  
6 you want to show him a part of the government exhibit that's  
7 marked as a defense exhibit?

8 MR. SCHACHTER: We didn't know precisely how to handle  
9 this, your Honor. There is a large government exhibit I didn't  
10 want to introduce. I don't think we need to introduce the  
11 entire exhibit. We intend to introduce one page of it. So we  
12 intended to call it -- we thought it would be less confusing  
13 and perhaps incorrectly -- defense excerpt A of Government  
14 Exhibit 306D.

15 THE COURT: Is 306D in evidence, Andy?

16 MR. SCHACHTER: I don't believe so, your Honor. I  
17 believe a portion of it is. I believe the government  
18 identified it as -- certain pages as Government Exhibit 306D  
19 followed by a number.

20 (Pause)

21 THE COURT: All right. None of it is in.

22 MR. MARK: This is not in evidence.

23 THE COURT: So whatever you want to use, let's get it  
24 marked and it will be a defense exhibit.

25 MR. SCHACHTER: OK. It has been marked as Government

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Gassnola - cross

1 Exhibit 306D. If it is acceptable to the Court, we could offer  
2 just 306D in its entirety and then show one page. I think that  
3 is easiest.

4 MR. MARK: Objection, I mean, to the whole thing  
5 coming in. We can sort of address the page that he wants  
6 but --

7 MR. SCHACHTER: Perhaps we can number it --

8 THE COURT: Is there one particular page? Is that the  
9 point?

10 MR. SCHACHTER: Yes, your Honor.

11 THE COURT: So we have Government Exhibit 306D, and am  
12 I right that the page is Bates stamped with a number ending in  
13 9293?

14 MR. SCHACHTER: It is a series of pages starting with  
15 9293, and then it is 334 and 335, it is those three pages.

16 THE COURT: All right. So those three pages of  
17 Government Exhibit 306D, for identification, are received. The  
18 balance of Government Exhibit 306D is not received at this  
19 time.

20 (Government's Exhibit 306D, pages 9293, 334 and 335  
21 received in evidence)

22 THE COURT: OK. Go ahead.

23 MR. SCHACHTER: Thank you, your Honor.

24 BY MR. SCHACHTER:

25 Q. All right, sir.

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Gassnola - cross

1           So can we turn first, Mr. McCloud, just to the third  
2 page of Government Exhibit 306D.

3           And at the bottom of that page, do you see \$40,000  
4 that you withdrew from your Berkshire bank account?

5           Sir, these are records of the New England Playaz bank  
6 account, is that correct?

7 A.   Yep.

8 Q.   And you withdrew \$40,000 in cash on October the 30th, is  
9 that correct?

10 A.   Yep.

11           MR. SCHACHTER: Oh, I'm sorry. May I publish it to  
12 the jury, your Honor?

13           THE COURT: Yes.

14           MR. SCHACHTER: I neglected to do that.

15 Q.   So, I'm sorry. You withdrew \$40,000 from this account on  
16 October the 30th of 2015, is that right?

17 A.   Yep.

18 Q.   And then it was just a couple of days later, on November  
19 the 2nd, I believe that you testified, that you provided the  
20 \$40,000 in cash to Coach Orlando Early at NC State, is that  
21 correct?

22 A.   That's correct.

23           MR. SCHACHTER: And then if we can, Mr. McCloud,  
24 please just look at the page right before then, the wire  
25 transfer on October the 20th. It is in the middle of the page.

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Gassnola - cross

1 There.

2 Q. Sir, is this a record of the \$40,000 wire transfer that you  
3 received ten days before October the 30th?

4 A. It is.

5 Q. And that's from a man named Martin Fox, is that correct?

6 A. That's correct.

7 Q. Now, Martin Fox, he was a man who occasionally helped an  
8 agent named Andy Miller? I believe Mr. Mark asked you about  
9 Mr. Miller, is that correct?

10 A. Martin Fox wears a lot of hats, but he worked with Andy for  
11 a few years back, yeah.

12 Q. And he also worked with other agents and financial  
13 advisors, correct?

14 A. As I said, he wore a lot of hats.

15 Q. And one of the hats that he would wear is arranging for  
16 money to be paid to players' families on behalf of Andy Miller  
17 and those financial advisors and agents, is that correct?

18 MR. MARK: Objection.

19 THE COURT: Sustained.

20 Q. All right. Sir, you've known Mr. Miller for about 15  
21 years, is that correct?

22 A. Yep.

23 Q. You have a personal friendship with Mr. Miller, is that  
24 correct?

25 A. I would like to think so.

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Gassnola - cross

1 Q. And in all of your meetings with prosecutors, you never  
2 said anything about Mr. Miller arranging for any payments to  
3 players' families, is that correct?

4 A. I don't recall that.

5 Q. And you in fact -- well, withdrawn.

6 You told -- well, withdrawn.

7 The government did ask you on direct examination about  
8 your relationship with Mr. Miller, is that correct?

9 A. They did.

10 Q. And you said that you were paid a salary by Mr. Miller in  
11 2004, in 2005, about \$1,500 a month, is that correct?

12 A. Somewhere around those dates, yes.

13 Q. But aside from that, you don't recall receiving any other  
14 payments from him, is that correct?

15 A. I don't recall.

16 Q. Is it true, sir, that in 2014, Mr. Miller paid your fiancée  
17 an additional \$4,000?

18 A. I don't recall that. I don't remember that. I don't  
19 recall it. I don't.

20 Q. Is it true that in addition to those payments to your  
21 fiancée, Mr. Miller, in April of 2014, advanced --

22 THE COURT: Sustained as to form. So far you've got  
23 no evidence of payments. You are assuming facts as to which  
24 there is no evidence.

25 Go on.

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Gassnola - cross

1 MR. SCHACHTER: I'm -- OK. I was inquiring of the  
2 witness with a good faith basis, your Honor.

3 THE COURT: Just go on.

4 BY MR. SCHACHTER:

5 Q. All right. I'm sorry. You said you don't recall whether  
6 you received those payments?

7 A. I do not.

8 Q. I'm going to show you Defense Exhibit 1338. It is in your  
9 binder.

10 If you can just look at that to yourself, review it,  
11 and let us know when you are done.

12 (Pause)

13 A. OK.

14 Q. Does that refresh your recollection as to any payments that  
15 you received from Mr. Miller in 2014, and just whether it  
16 refreshes your recollection or not?

17 A. No.

18 Q. OK. Sir, if you could also look at Defense Exhibit 1335A.  
19 Again, just review it to yourself, 1335A.

20 MR. SCHACHTER: And, Mr. McCloud, if you could just  
21 highlight for the witness, under -- yes. Right.

22 Q. Can you just review that to yourself and let us know when  
23 you are done.

24 A. I'm done.

25 Q. Does that refresh your recollection as to any payments that

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Gassnola - cross

1 you received from Mr. Miller?

2 A. It does.

3 Q. Can you tell us what you now recall.

4 A. I had a player that was at the University of Arizona and he  
5 was entering the NBA draft, and he was working out with a  
6 friend of mine who was working him out. So he was reimbursed  
7 for his expenses from flying back and forth to Tucson, staying  
8 in hotels, paying for his fees. So instead of putting it under  
9 his name, he put that in a line item under my name, because I  
10 am the one who introduced Andy to this person.

11 Q. Do you recall --

12 THE COURT: I'm sorry. Maybe you can make that a  
13 little clearer for the rest of us.

14 There were at least one or two "he"s in that  
15 exposition. Who did what to whom?

16 THE WITNESS: The gentleman who coached my program for  
17 a few years was working Kalib out. Flying back and forth from  
18 his home to Tucson, staying over, working him out, and Andy  
19 reimbursed him but he reimbursed him in his line item under my  
20 name because I introduced the two of them together. I put that  
21 together.

22 THE COURT: And did you ever receive the money from  
23 Andy Miller or did the money go to this other person?

24 THE WITNESS: I never received money, your Honor. It  
25 went to John.



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Gassnola - cross

1 THE COURT: OK.

2 MR. SCHACHTER: OK. Thank you, sir.

3 BY MR. SCHACHTER:

4 Q. Prior to October the 20th, did you receive an additional  
5 wire transfer from Mr. Fox also in the amount of \$40,000?

6 A. Yes.

7 Q. And may I show you what is now unhelpfully Government  
8 Exhibit 306D, defense excerpt B? Maybe we can call it  
9 Government Exhibit 306D-B, your Honor.

10 THE COURT: No. It is Government Exhibit 306D, for  
11 identification. Do you want to offer another part of it?

12 MR. SCHACHTER: Yes, your Honor.

13 THE COURT: Tell us what the page number is.

14 MR. SCHACHTER: It is pages 29327 and 29328.

15 THE COURT: Any objection?

16 MR. MARK: On relevance, your Honor.

17 (Pause)

18 MR. SCHACHTER: Your Honor, it may be helpful for me  
19 to explain relevance at sidebar.

20 THE COURT: Well, it may be, indeed.

21 Come on up.

22 (Continued on next page)

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Gassnola - cross

1 (At the sidebar)

2 THE COURT: What is the relevance?

3 MR. SCHACHTER: Your Honor, the evidence shows -- the  
4 evidence will show, we believe, that a month earlier  
5 Mr. Gassnola also took a wire transfer from Mr. Fox of \$40,000.

6 THE COURT: That he has already said.

7 MR. SCHACHTER: And that on September the 7th, he  
8 rented a car and went to Raleigh, North Carolina. We submit  
9 the evidence shows, or it will be our argument that in fact  
10 these payments were being delivered to the Smith family on  
11 behalf of Martin Fox in order to develop his relationship with  
12 Andy Miller and also a business manager named Lester Knispel.  
13 There are text messages which show --

14 THE COURT: Why don't you ask him the questions.

15 MR. SCHACHTER: OK.

16 THE COURT: And how does any of this appear from the  
17 bank statement?

18 MR. SCHACHTER: Well, you see the wire transfer, as  
19 the government showed the wire transfers. We showed the wire  
20 transfer, and then you see the cash withdrawal --

21 THE COURT: The government should have done this in a  
22 much more efficient way, too, that is clear. But --

23 MR. SCHACHTER: I can try just asking the questions  
24 and we don't need the evidence -- or the records.

25 THE COURT: If you need the records, you need the

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Gassnola - cross

1 records.

2 MR. SCHACHTER: Yes, your Honor.

3 THE COURT: Let's go on.

4 (Continued on next page)

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Gassnola - cross

1 (In open court)

2 BY MR. SCHACHTER:

3 Q. Sir, on September 1, 2015, did Mr. Fox wire you an  
4 additional \$40,000?

5 A. September 1st?

6 Q. Yes. September the 1st of 2015, so about a month and 20  
7 days before the \$40,000 wire transfer we just talked about.

8 A. Yes.

9 Q. And he wire transferred you an additional 40,000?

10 A. He did.

11 Q. And did you withdraw that amount, \$40,000, in cash three  
12 days later, on September the 4th, of 2015?

13 A. I don't recall. Do you have a record of it?

14 THE COURT: This is 2015?

15 MR. SCHACHTER: I'm terrible. I'm sorry, your Honor.  
16 Yes, 2015. I apologize.

17 Q. Do you recall that you withdrew \$40,000 in cash three days  
18 later, on September 4th, 2015?

19 A. I don't.

20 MR. SCHACHTER: Your Honor, may we now --

21 THE COURT: Can't you stipulate?

22 MR. MARK: Yes, your Honor.

23 MR. SCHACHTER: OK.

24 THE COURT: Mr. Moore? Mr. Haney?

25 MR. HANEY: Yes, sir.

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Gassnola - cross

1 MR. MOORE: Yes, your Honor.

2 THE COURT: All right. It is stipulated, members of  
3 the jury, that he withdrew \$40,000 on September 4, 2015.

4 Next.

5 BY MR. SCHACHTER:

6 Q. Did you three days later rent a car to Raleigh, North  
7 Carolina, or in Raleigh, North Carolina on September 7, 2015?

8 A. I don't recall.

9 MR. SCHACHTER: Your Honor, will there be another  
10 stipulation or I can show a different document?

11 THE COURT: I don't know.

12 MR. MARK: If could take a look?

13 MR. SCHACHTER: 309 -- 309C.

14 (Counsel conferred)

15 MR. SCHACHTER: Your Honor, the government has no  
16 objection to me showing the witness, just to refresh his  
17 recollection, what has been marked as Government Exhibit 309C,  
18 or 309 defense excerpt C.

19 THE COURT: OK.

20 Q. Sir, if you can just look to yourself -- your Honor, may we  
21 just introduce this exhibit?

22 MR. MARK: We would object --

23 MR. SCHACHTER: I will lay a foundation.

24 Q. Sir, do you recognize American Express records from your  
25 American Express account?

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Gassnola - cross

1 A. Yes.

2 Q. And is this records from -- do they show charges in  
3 September of 2015 on the last page?

4 MR. SCHACHTER: On the last page, page C, please,  
5 Mr. McCloud.

6 A. What am I looking at?

7 MR. SCHACHTER: We will offer Defense Exhibit --  
8 Government Exhibit 309 defense excerpt C?

9 A. OK.

10 MR. MARK: Objection as to relevance.

11 THE COURT: Can't we do this a little more  
12 efficiently? Can't we move this along?

13 MR. SCHACHTER: I apologize, your Honor.

14 Q. Sir, does looking at this document, Government Exhibit 309  
15 defense excerpt C, refresh your recollection that you rented a  
16 car in Raleigh, North Carolina, on September 8, 2015?

17 A. Yes. Now I can, yes.

18 Q. OK. And, sir, do you know a man named Lester Knispel?

19 A. I know Lester, yes.

20 Q. He is a business manager. He represents athletes and  
21 celebrities, is that correct?

22 A. Yep.

23 Q. And you had Mr. Fox set up a meeting with Dennis Smith  
24 Senior and Shawn Farmer with Lester Knispel when they were in  
25 California, is that correct?

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Gassnola - cross

1 A. I never set that up.

2 Q. Did you exchange text messages with Mr. Fox on that topic?

3 A. Maybe I did but I never set anything up.

4 Q. OK. But did you communicate with Martin Fox about  
5 arranging for a meeting with Dennis Smith Senior and Shawn  
6 Farmer with a business manager named Lester Knispel?

7 A. I don't remember that.

8 Q. I'm going to show you what's been marked -- just you, your  
9 Honor -- Defense Exhibit 185A.

10 You can just review this to yourself, sir.

11 Let us know when you are done.

12 (Pause)

13 A. I recall some of it, yep.

14 Q. OK. Do you recall having communications with Martin Fox  
15 about arranging for a meeting with Dennis Smith Senior and  
16 Shawn Farmer with Lester Knispel?

17 A. It says right here, yeah.

18 Q. Sir, was the -- when you withdrew that \$40,000 in cash on  
19 September the 4th and then rented a car in Raleigh, North  
20 Carolina, was that to take that \$40,000 to Dennis Smith Senior?

21 A. I never gave Dennis Smith Senior a dime.

22 Q. OK. Thank you, sir.

23 Now, I believe that Mr. Mark asked you about Dennis  
24 Smith's shoe deal. Do you recall those questions?

25 A. Yeah.

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Gassnola - cross

1 Q. And you testified, I believe, that Adidas had offered him a  
2 shoe endorsement contract, is that correct?

3 A. Yep.

4 Q. And you said -- I believe you said that he turned down  
5 Adidas and signed with Under Armour, is that correct?

6 A. He signed with Under Armour, I know that.

7 Q. And, well, do you know that's because Under Armour offered  
8 him more money? Do you know that?

9 A. Yes.

10 Q. And you communicated with Jim Gatto about Dennis Smith's  
11 decision to sign a shoe contract with Under Armour rather than  
12 Adidas, is that correct?

13 A. Jim and I had a lot of conversations about it, but I don't  
14 remember every one of them.

15 Q. I'm going to show you what has been received in evidence as  
16 Government Exhibit 107K-5.

17 You had communicated this text message to Mr. Gatto,  
18 is that correct?

19 A. I did.

20 Q. And he did not respond to your communication regarding  
21 Dennis Smith, did he?

22 A. No.

23 Q. And when you spoke to him, he expressed that he was  
24 disappointed, but he said nothing to you about being upset that  
25 Adidas lost out on Dennis Smith, isn't that correct?



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Gassnola - cross

1 MR. MARK: Objection.

2 THE COURT: What is the objection?

3 MR. MARK: Hearsay, your Honor.

4 MR. SCHACHTER: State of mind, your Honor.

5 THE COURT: This is "hear non say." He said nothing.  
6 Overruled.

7 Q. Sir --

8 THE COURT: Answer the question, please.

9 A. Can you repeat that again? Sorry.

10 Q. Sure. Mr. Gatto didn't say anything to you about being  
11 upset that Dennis Smith had signed with Under Armour despite a  
12 payment of \$40,000, did he? He didn't say that to you?

13 A. He didn't say anything in this text message, no, in  
14 response to that.

15 Q. And he didn't say anything like that -- he didn't say that  
16 he was upset about this because he signed with Under Armour  
17 even though this \$40,000 payment had been made; he didn't say  
18 anything about that either?

19 THE COURT: That would be included in the word  
20 "anything." Next question.

21 MR. SCHACHTER: I believe the witness said "anything"  
22 in this text message but my question was --

23 THE COURT: You didn't broaden your question. Go on.

24 MR. SCHACHTER: I will do that.

25 Q. Putting aside this text message, Mr. Gatto never said to

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Gassnola - cross

1 you that he was outraged that Dennis Smith had signed with  
2 Under Armour notwithstanding the \$40,000 payment that you made;  
3 he didn't say that to you, did he?

4 A. Jim and I didn't really discuss this \$40,000 payment. The  
5 only time we discussed it was when I wanted to get reimbursed  
6 for it, that's it. Never discussed it again.

7 Q. OK. Thank you, sir.

8 Let's speak briefly about Billy Preston.

9 Sir, you testified on direct examination about some  
10 money that you paid to Billy Preston's mother, Nicole Player,  
11 is that correct?

12 A. Yes.

13 Q. I want to ask you some questions about the timing of those  
14 payments.

15 Sir, every payment that you made to Nicole Player was  
16 made after Billy Preston had verbally committed to the  
17 University of Kansas, is that correct?

18 A. I think so. I don't remember when he verbally committed.  
19 I don't.

20 Q. OK. I'm going to show you 3503-12 at page 5.

21 And may I have just a moment, your Honor?

22 (Pause)

23 No, I think we have the wrong page. May I have just a  
24 moment, your Honor?

25 THE COURT: Yes.

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Gassnola - cross

1 (Pause)

2 MR. SCHACHTER: I'm sorry. Can you zoom out,  
3 Mr. McCloud.

4 It is the sentence that starts -- I'm sorry. One  
5 moment.

6 (Pause)

7 You've got it.

8 Let us know when you are done.

9 (Pause)

10 A. I'm done.

11 Q. Does that refresh your recollection that Billy Preston had  
12 verbally committed to the University of Kansas in September or  
13 October of 2016?

14 A. It does.

15 Q. And all of your payments that you described to Nicole  
16 Player were made after he had verbally committed to the  
17 University of Kansas, is that correct?

18 A. That's correct.

19 Q. And then after Mr. Preston had committed to Kansas, you  
20 told Billy Preston's mother that if she needed anything, she  
21 should come to you, is that correct?

22 A. I told her mother and her partner that.

23 Q. And you believed that having that kind of conversation with  
24 a talented player for a flagship Adidas school was part of your  
25 job, is that correct?

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Gassnola - cross

1 MR. MARK: Objection.

2 THE COURT: Sustained.

3 Q. You believed that having that conversation was part of your  
4 job, is that correct?

5 MR. MARK: Objection.

6 THE COURT: That is the same question. Sustained.

7 Q. You understood that Ms. Player was accepting financial  
8 support from agents and a bunch of other people other than  
9 Adidas. I believe you testified to that on direct examination.  
10 Is that correct?

11 A. I heard that, yep.

12 Q. And you were worried -- you were worried about that, is  
13 that correct?

14 A. I was.

15 Q. Because you believed that if Ms. Player was receiving money  
16 from a bunch of other sources, it would make it more likely  
17 that those payments would be discovered by the NCAA, is that  
18 correct?

19 A. I thought I could conceal it better, yes.

20 Q. And that would be -- if those payments were revealed, that  
21 could result -- that could affect Billy Preston's eligibility,  
22 is that correct?

23 A. If it was found out that I was giving them money, yes, it  
24 would affect his eligibility.

25 Q. And you did not want that to happen, is that correct?

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Gassnola - cross

1 A. No, I didn't.

2 Q. Because that would be bad for Billy Preston, correct?

3 A. It would be bad for Billy Preston and it would be bad for  
4 the university, yes, sir.

5 Q. And so -- withdrawn.

6 OK. I would like to speak to you now about Silvio De  
7 Sousa.

8 Sir, you testified on direct examination that you  
9 gave -- well, let me make sure I understand. You referred to  
10 Fenny Falmagne as Silvio De Sousa's guardian, is that correct?

11 A. That's what I was told, yes. I was referred to him as  
12 that.

13 Q. His legal guardian?

14 A. I was referred to him as his legal guardian. That's how he  
15 was referred to me.

16 Q. And you would also refer to Mr. Falmagne as Silvio De  
17 Sousa's handler, is that correct?

18 A. I would.

19 Q. And what does that term mean, what is a handler?

20 MR. MARK: Objection.

21 THE COURT: Overruled. He used the term.

22 What did you mean by it?

23 THE WITNESS: A handler is somebody who is a middle  
24 person between the young man, the athlete, the family, between  
25 AAU teams, agents, colleges. They want to run the show. They

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Gassnola - cross

1 want you to talk to them. They want to act like they're  
2 running the show.

3 BY MR. SCHACHTER:

4 Q. And Fenny Falmagne was the handler of Silvio De Sousa as  
5 you understood it, is that correct?

6 A. I understood him to be his guardian.

7 Q. OK. Now, you testified that you gave Mr. Falmagne \$2,500  
8 for I believe you said online classes for Mr. De Sousa, is that  
9 correct?

10 A. Fenny told me they needed \$2,500 for Silvio to attend  
11 online classes, night classes. That's what he asked me.

12 Q. And you were played a recording in which you talked with  
13 Mr. Gatto about getting a guy out from under a deal. Do you  
14 remember that?

15 A. I do.

16 Q. And on the call you talked about a payment of \$20,000 with  
17 Mr. Gatto, is that correct?

18 A. Yep.

19 Q. Sir, is it true that you had previously told the government  
20 that there were never any payments to Silvio De Sousa?

21 A. I don't remember that.

22 MR. SCHACHTER: May I have a moment, your Honor?

23 THE COURT: Mr. Gassnola, did you understand that  
24 question --

25 THE WITNESS: I did not. I apologize.

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Gassnola - cross

1 THE COURT: Well, let me finish.

2 Did you understand that question to be directed at  
3 payments to Silvio De Sousa? Did you understand it to be  
4 directed at payments to Fenny Falmagne? Or somebody else, or  
5 something else?

6 THE WITNESS: I understood it to be payments to Fenny  
7 Falmagne, your Honor.

8 THE COURT: All right. Thank you.

9 BY MR. SCHACHTER:

10 Q. Do you recall being interviewed by the government on  
11 December 5, 2017? I believe that is a meeting that we've  
12 discussed. Do you recall that?

13 A. I remember I was here, yes, September 5th.

14 Q. And is it true, sir, that you told the government on  
15 December 5, 2017, that regarding Silvio De Sousa, you did not  
16 recall any payments to De Sousa?

17 A. I don't remember that.

18 Q. I'm going to show you now what has been marked as 3503-10,  
19 at page 12.

20 If you could just take a moment and review that to  
21 yourself, sir.

22 (Pause)

23 Let us know when you are done.

24 A. I'm done.

25 Q. Does that refresh your recollection that you told the FBI

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1 and members of the prosecution team that regarding Silvio De  
2 Sousa, you did not recall any payments to De Sousa?

3 A. I don't recall -- well, reading this, I could have thought  
4 about it later. I don't -- I could have refreshed my memory  
5 later on in the day of the week. I don't recall.

6 Q. And, sir, you testified in a very early meeting that you  
7 were not truthful with the government, is that correct?

8 MR. MARK: Objection. Mischaracterizes his statement.

9 THE COURT: Sustained.

10 Q. Did you testify that when you were initially approached by  
11 government, you were not truthful?

12 MR. MARK: Objection. Mischaracterizes the statement.

13 Further, may I speak with Mr. Schachter --

14 THE COURT: I'm sorry. You dropped your voice. I  
15 can't hear you.

16 MR. MARK: I apologize, your Honor.

17 Objection, it mischaracterizes his statement. And I  
18 also have a concern that there is a misimpression that is being  
19 given to the witness right now based on how these documents are  
20 being presented.

21 THE COURT: All right. Members of the jury, it's been  
22 a long day. Today is Wednesday, right? 9:30 tomorrow  
23 morning -- Thursday. 9:30 Monday morning for you, and I'll  
24 hear counsel after you leave.

25 THE CLERK: Would the jury please come this way.



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1 (Jury not present)

2 THE COURT: And you are done for the day,  
3 Mr. Gassnola.

4 (Witness excused)

5 THE COURT: You can be seated.

6 Mr. Gassnola, we'll see you Monday.

7 THE COURT: OK, Mr. Mark. Mr. Mark, what's on your  
8 mind?

9 MR. MARK: Can we just wait one second for the witness  
10 to exit.

11 (Witness not present)

12 MR. MARK: OK. Thank you, your Honor.

13 So what was being displayed on the screen --

14 THE COURT: Could you get in some proximity of the  
15 microphone, please.

16 MR. MARK: I apologize, your Honor.

17 What was being displayed on the screen was just one  
18 sentence from a longer 302, which I know your Honor is familiar  
19 with. But it's at 35 --

20 THE COURT: I have read a lot but I don't promise to  
21 have read every word in this case.

22 MR. MARK: I don't recall --

23 THE COURT: I'm not that old yet.

24 MR. MARK: It's 3503-10, and there are two paragraphs  
25 that discuss relating to Mr. Gassnola's statements to the FBI

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1 about Silvio De Sousa.

2 THE COURT: Where should I be looking?

3 MR. MARK: So you can start at page 12 of 3503-10.

4 The conversation begins at "regarding," and there are  
5 two paragraphs that go on to the next page for which only the  
6 first sentence was highlighted for the witness. What is clear  
7 from these two paragraphs is that there was then a recording  
8 that was played, the same recording that the jury heard during  
9 this testimony. And then Mr. Gassnola, with his recollection  
10 refreshed from the recording, talked about two different  
11 payments, the payment to Mr. De Sousa, so that -- the payment  
12 to Mr. Falmagne so Mr. De Sousa would transfer from IMG Academy  
13 and then the second payment to be made later to Mr. Falmagne.

14 (Continued on next page)

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IAB8GAT6

1           MR. MARK: So I think there was a misimpression that  
2 was being brought here to the witness and through that line of  
3 questioning through the demonstration of that 302 as it was  
4 highlighted to Mr. Gassnola. I don't know that that was  
5 intentional at all, but it does lead to a concern for the  
6 government.

7           THE COURT: Mr. Schachter.

8           MR. SCHACHTER: I don't know precisely how to  
9 interpret the 302, your Honor. I don't know precisely what  
10 that means. I am also looking at the underlying notes that the  
11 agent took, which is 3503-9, at page 16, where the agent wrote  
12 the words, "Silvio De Sousa never any payments. TJ Gassnola  
13 makes up story to Jim Gatto." That's on page 16, right under  
14 the word "Silvio De Sousa," that's the agent's notes as he is  
15 taking them during the course of the interview.

16           I did not intend to mislead the witness. I am happy  
17 to have him read the entire 302. I was trying to be efficient.

18           THE COURT: Let me look at the notes, please.

19           I have to tell you, Mr. Schachter, that I don't see  
20 any ambiguity here at all. The notes and the 302 are entirely  
21 consistent. And they do not support your view of this.

22           MR. SCHACHTER: I apologize, your Honor. That's how I  
23 understood it, is that he had said that he didn't recall any  
24 payments to De Sousa and that he made up a story to Jim Gatto.

25           THE COURT: Keep going.

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1           MR. SCHACHTER: It's not clear to me whether he is  
2 talking about a discussion that he had with Mr. Falmagne, which  
3 is different than the payment being made.

4           THE COURT: The notes say "JG session 392." Obviously  
5 a reference to the Gatto wiretap session 392 that is referred  
6 to in the memo, right?

7           MR. SCHACHTER: Yes.

8           THE COURT: Totally consistent with what the agent  
9 says in the memo, namely, he said no payments. Then they  
10 played the wiretap with Gatto, right? We agree so far?

11          MR. SCHACHTER: Yes.

12          THE COURT: Then the notes say "underground stuff."  
13 "e.g., 4,000 to Fenny to get SDS to a different  
14 school, not IMG.

15          "e.g., 20,000 to Fenny tomorrow.

16          "JG -- Mr. Gatto -- OK with this.

17          "But TJG -- meaning Gassnola -- never planning to pay  
18 anything to Fenny further."

19          And it goes on. I don't think what follows is  
20 relevant.

21          MR. SCHACHTER: No question they spoke about a  
22 payment. We heard the recording. It's a different question.  
23 Was a payment made is a different question than was it  
24 discussed. As I understood what he told the agent, he said  
25 this is the discussion that is being made. But I did not

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1 understand it to change his answer that he did not make any  
2 payments. On the witness stand now he says he didn't make the  
3 \$20,000 payment, but he did provide \$2500, I believe was his  
4 testimony on direct, which would still be inconsistent,  
5 although not materially so, from what he says is being  
6 discussed on the wiretap. I still read this, and I may be  
7 completely wrong --

8 THE COURT: Sir, after you showed him the 302, you  
9 asked, "Does that refresh your recollection that you told the  
10 FBI and members of the prosecution team that regarding Silvio  
11 De Sousa you did not make any payments to De Sousa?"

12 He did not say, I made no payments then. He said, "I  
13 don't recall. Well, reading this, I could have thought about  
14 it later. I could have refreshed my memory later on in the day  
15 of the week. I don't recall."

16 MR. SCHACHTER: Two issues. First, again, we are not  
17 speaking about what was discussed. We are talking about what  
18 actual payments were made.

19 According to the 302, the 302 says, regarding Silvio  
20 De Sousa, Gassnola did not recall any payments to De Sousa.  
21 The notes that were taken contemporaneously in the interview  
22 say, Silvio De Sousa never any payments.

23 THE COURT: Both documents consistently say that  
24 first. We are talking about what you did here by showing only  
25 that, and not showing him the next bit, which involves the

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1 playing of the tape and his then saying additional things that  
2 are, at least arguably, inconsistent with the no payments.

3 MR. SCHACHTER: I understood him saying, now I have  
4 heard this tape and I am telling you what we were discussing,  
5 which is different from, as I understood it, what payments were  
6 made. I understood him to be telling the FBI what was being  
7 discussed on the tape.

8 THE COURT: Mr. Schachter, I am not happy about this  
9 kind of behavior.

10 MR. SCHACHTER: Yes, your Honor.

11 THE COURT: You will be able to deal with it on  
12 redirect.

13 Anything else?

14 MR. MARK: Not from the government.

15 THE COURT: OK. Enjoy the weekend, folks.

16 (Adjourned to October 15, 2018, at 9:30 a.m.)  
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